Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

AT&T Services, Inc.
1120 20th Street, N.W.
Washington, D.C. 20036
202-457-3090

AT&T Corp.
One AT&T Way
Bedminster, NJ 07921
202-457-3090

***Complainants*,**

v.

123.Net (d/b/a Local Exchange Carriers of Michigan and/or Prime Circuits)
24700 Northwestern Highway, Suite 700
Southfield, MI 48075

Defendant.

Proceeding Number ___
File No. _____
Inf. Compl. File No. EB-14-MDIC-0003

AT&T SERVICES, INC. FORMAL COMPLAINT EXHIBITS

Ex.	Date	Description	Bates Nos.
1	08/02/2019	Joint Declaration of Geri Lancaster & Kurt Giedinghagen ("Joint Declaration" or "Joint Decl.")	ATT-0000001 to ATT-0000019
2	10/02/2017	Lisa B. Griffin (Commission) Grant of AT&T's Consent Motion for Wait and to Extend the Time In Which To Convert Its Informal Complaint As to LEC-MI (dated Oct 2, 2017)	ATT-0000020 to ATT-0000026
3	04/04/2014	Letter from Michael J. Hunseder, Counsel to AT&T Services Inc., to Rosemary McEnery, Chief, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-14-MDIC-0003 (emailed April 4, 2014) ("AT&T Informal Complaint")	ATT-0000027 to ATT-0000048
4	02/26/2014	Letter to R. McEnery, FCC, from R. Severy, Verizon, A. Sherr, CenturyLink, and K. Buell, Sprint, File No. EB-14-MDIC-0001 ("IXC Informal Complaint")	ATT-0000049 to ATT-0000066

5	05/12/2014	Letter of J. Bowser, Counsel to LEC-MI, to A.J. DeLaurentis, FCC (May 12, 2014) ("LEC-MI Inf. Compl. Resp.")	ATT-0000067 to ATT-0000076
6	01/04/2017	Settlement Agreement among AT&T, GLC and Westphalia	ATT-0000077 to ATT-0000100
7	02/19/2013	GLC Tariff Revisions	ATT-0000101 to ATT-0000106
8	04/12/2014	123Net-FCC-Base-Tariff ("Current LEC-MI Tariff Excerpts")	ATT-0000107 to ATT-0000128
9	Accessed 07/31/2019	Form 499 Filer Database, Detailed Information for LEC-MI, ("LEC-MI Form 499")	ATT-0000129 to ATT-0000131
10	01/30/2018	AT&T's Consent Motion for Waiver and to Extend the Time in which to Convert its Informal Complaint as to LEC-MI ("January 2018 Consent Motion")	ATT-0000132 to ATT-0000139
11	09/13/2018	Letter from Lisa Saks, Assistant Chief, Market Disputes Resolution Division, Enforcement Bureau (Sept. 13, 2018)	ATT-0000140 to ATT-0000142
12	06/06/2019	Mediation of AT&T Services Letter (June 6, 2019)	ATT-0000143 to ATT-0000145
13	10/20/2014	Refiled Declaration of John W. Habiak ("Habiak Decl.")	ATT-0000146 to ATT-0000164
14	12/01/2014	Joint Statement of Stipulated Facts ("GLC Joint Stmt.")	ATT-0000165 to ATT-0000208
15	01/01/2010	GLC Tariff Excerpts	ATT-0000209 to ATT-0000315
16	11/19/2014	AT&Ts Reply to Answer, Response to Affirmative Defenses, and Information Designation (Nov. 19, 2014) ("AT&T GLC Answer")	ATT-000031 6 to ATT-0000382

Exhibit 1

Joint Declaration of Geri Lancaster & Kurt Giedinghagen
(“Joint Declaration” or “Joint Decl.”)

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of **AT&T Services, Inc.** **1120 20th Street, N.W.** **Washington, D.C. 20036** **202-457-3090** **AT&T Corp.** **One AT&T Way** **Bedminster, NJ 07921** **202-457-3090** ***Complainants,*** ***v.*** **123.Net (d/b/a Local Exchange Carriers of Michigan and/or Prime Circuits)** **24700 Northwestern Highway, Suite 700** **Southfield, MI 48075** ***Defendant.***	**Proceeding Number ___** **File No. _____** **Inf. Compl. File No. EB-14-MDIC-0003**

JOINT DECLARATION OF GERI L. LANCASTER AND KURT GIEDINGHAGEN

1. This Joint Declaration is made by Geri L. Lancaster and Kurt Giedinghagen.

2. I, Geri L. Lancaster, am employed by AT&T Corp. ("AT&T"). My business address is 300 North Point Parkway, Room 214H13, Alpharetta, GA 30005. My current title, which I have held for 10 years, is Director – Billing Operations, Access Billing Management. I work in AT&T's Financial Billing Operations organization. My functions during the time period relevant to this Joint Declaration included overall responsibility for invoice receipt, processing, validation, payment authorization and dispute management for switched and

dedicated access service invoices that local exchange carriers ("LECs") render to AT&T, which is an interexchange carrier ("IXC"). In this capacity, I oversaw a staff of 29 employees and between 20 and 30 contractors. I have worked for AT&T for 35 years. For 33 of those years, my job responsibilities have concerned billing for access services. I am responsible for the testimony in paragraphs 1, 2, 4 through 19 and 24 through 26 of this Joint Declaration.

3. I, Kurt Giedinghagen, am employed by AT&T Corp. ("AT&T"). My business address is 2121 E. 63rd St., Building C, Kansas City, MO 64130. My current title is Lead – Carrier Relations Manager. I work in AT&T's Access Management organization. During the time period relevant to this Joint Declaration, my functions included oversight and analysis of carrier billing for switched access services, and I continue to perform those functions. I have worked for AT&T for 41 years. For about 35 of those years, my job responsibilities have concerned access services. I am responsible for the testimony in paragraphs 1, 3, 4, 16, 17 and 20 through 23 of this Joint Declaration.

4. The purposes of this Joint Declaration are (i) to explain the processes AT&T employs to receive, to assess, and to pay access invoices issued by LECs, including 123 Net, Inc. d/b/a Local Exchange Carriers of Michigan ("LEC-MI"), and (ii) to identify the amount of overcharges that AT&T has paid to LEC-MI for certain access charges billed to AT&T.

5. AT&T receives access invoices via one of three methods: U.S. mail; electronic mail; or electronic feed. With respect to invoices received via e-mail or electronic feed, AT&T accepts two industry standard formats. One such format is called the Small Exchange Carrier Access Billing System, or "SECABS." As its name suggests, the SECABS format is typically used for the invoices of small LECs. The invoices AT&T receives that are

associated with LEC-MI are, and have been since at least January 2012, received via e-mail and in the SECABS format.

6. During the period relevant to the billing in dispute (from at least January 1, 2012 through early 2014), LEC-MI did not render a bill directly to AT&T. Rather, LEC-MI used Westphalia Telephone Company ("Westphalia"), which I understand is an affiliate of another company, Great Lakes Comnet, Inc. ("GLC"), as billing agent for access services.

7. In connection with issuing its invoices during the relevant period, Westphalia used a vendor to produce a single monthly SECABS formatted invoice that included charges associated with LEC-MI, Westphalia and GLC (as well as other carriers). The invoices separately identify the traffic associated with each of Westphalia and LEC-MI by using the Operating Company Number ("OCN") for each company. LEC-MI's OCN is 2550.

8. On behalf of Westphalia as agent for LEC-MI, the Westphalia vendor sent SECABS formatted electronic invoices to AT&T via e-mail each month. Upon receiving those electronic invoices, AT&T uploaded the files into an AT&T-proprietary billing management system called Bill Receipt and Access Verification Operations ("BRAVO"). The BRAVO system uses the data contained in the SECABS invoices to create an online format for viewing and auditing the invoices. The information contained in the SECABS invoices that is presented through the BRAVO system includes the volume of traffic (measured in minutes of use), the jurisdiction (interstate vs. interstate), the rates and rate elements and the dollar amount of the charges.

9. AT&T's BRAVO system retains all of the data contained on the SECABS invoices provided by LECs that submit electronic invoices, including the data on the invoices the vendor sent to AT&T on behalf of Westphalia as agent for LEC-MI. The billing data is

then reviewed and audited by AT&T. If errors, improper traffic or other bases for not paying some or all of the billed amounts are identified, AT&T deducts the appropriate amount from the billed amount. The final payable amounts are submitted to AT&T's Accounts Payable group for payment.

10. The BRAVO system and the associated invoice payment process are employed in the ordinary course of business and are typically used for all of the access invoices AT&T receives in electronic format, and were used for the invoices AT&T received from the vendor on behalf of Westphalia as agent for LEC-MI since at least January 2012.

11. During AT&T's audits of the bills submitted for LEC-MI, AT&T noticed an error. That error was that the rates billed for LEC-MI were not benchmarked to the correct local exchange carrier under the rules of the Federal Communications Commission ("Commission"), such that the rates used for the LEC-MI traffic were too high. Consequently, during the period relevant to AT&T's subject dispute with LEC-MI (February 2012 to April 2014), AT&T manually "re-rated" the LEC-MI minutes of use at the correct benchmark rate, and then paid the re-rated amount.

12. Also, in 2013, AT&T discovered that a significant portion of the LEC-MI traffic invoiced to AT&T was improperly billed for a different, additional reason. Since at least February 2012 and until about February 2014 (when, as discussed below, the improper billing essentially ceased), the LEC-MI bills to AT&T included charges for interstate, originating, end office access services – specifically the local switching and shared port rate elements – on traffic that did not originate from callers who were end user customers of LEC-MI. This traffic was so-called "8YY aggregation traffic." In general, 8YY aggregation traffic consists of calls placed to toll-free, 8YY numbers by end users who were not

customers of the LEC billing originating access for the traffic (in this case LEC-MI), but rather were customers of other carriers (typically wireless carriers, but also possibly voice over Internet Protocol "VoIP" carriers).

13. Based on the bills as submitted by the vendor on behalf of Westphalia as agent for LEC-MI, AT&T had no means of knowing that LEC-MI was engaged in 8YY aggregation. Nor could AT&T tell from the bills alone that LEC-MI was assessing AT&T originating end office access charges on 8YY aggregation traffic. Nor did LEC-MI, Westphalia or the vendor ever disclose the 8YY aggregation activities to AT&T.

14. AT&T first learned about LEC-MI's 8YY aggregation activities in mid-2013. Around that time, AT&T requested certain call detail records that included LEC-MI traffic. AT&T received those records in July 2013. AT&T's analysis of those records indicated that LEC-MI was engaged in 8YY-aggregation, and further suggested that 8YY aggregation was the reason for a material increase in billed originating access traffic beginning in February 2012.

15. I understand that, under the rules of the Commission, LEC-MI is not entitled to assess originating end office access rate elements on calls, such as the 8YY aggregation calls, that do not originate from its own end users. I further understand that LEC-MI representatives have acknowledged that LEC-MI is not entitled to assess end office originating access charges on such traffic.

16. After AT&T realized that the LEC-MI invoices improperly contained interstate, originating, end office access charges on 8YY aggregation traffic, AT&T took steps to avoid paying charges that AT&T did not properly owe. Because AT&T had no means to determine precisely how many of the billed minutes were 8YY aggregation traffic, as opposed to traffic

that was in fact associated with LEC-MI's end users and thus was properly billed, an estimate of the proper end user minutes was developed. For that estimate, AT&T used the average number of originating interstate access minutes billed by LEC-MI to AT&T for the period from August 2011 through January 2012, which is the 6-month period before February 2012, when AT&T believes that LEC-MI began its 8YY aggregation activities in earnest. That average monthly volume is 1,874,862 minutes of use. Using this 6-month period to develop LEC-MI's monthly, non-8YY aggregation traffic volume average for AT&T's estimate is conservative. I am aware of indications that the 8YY aggregation scheme began in 2010, *AT&T Services, Inc. et al.* v. *Great Lakes Comnet, Inc., et al.*, 30 FCC Rcd. 2586, ¶ 10 (2015), and thus the traffic volumes in the August 2011 through January 2012 period may already reflect improper 8YY aggregation traffic.

17. Beginning with the August 2013 invoice the vendor issued for Westphalia as LEC-MI's agent, and continuing through the February 2014 invoice, AT&T paid originating end office access charges – specifically local switching and shared port charges – only on the 1,874,862 estimated number of minutes associated with LEC-MI's actual end user customers, and withheld payment on the rest.

18. LEC-MI's 8YY aggregation activities essentially ended after the February 2014 invoice. I understand that the aggregation activities ended because the wireless carrier or carriers (or other aggregators) that were the original sources of the 8YY aggregation traffic no longer sent traffic to entities that, in turn, routed the calls to LEC-MI.

19. Although AT&T began withholding originating end office charges on LEC-MI's invoices starting with the August 2013 invoice to address the improper inclusion of charges on 8YY aggregation traffic, from at least February 2012 until July 2013, AT&T paid LEC-

MI interstate, originating end office access charges – local switching and shared port – on all the minutes billed. Most of those billed minutes were associated with 8YY aggregation traffic that did not originate from LEC-MI's end user customers, and AT&T is entitled to a refund of the amounts paid on such minutes.

20. AT&T's calculation of the amount of the refund it is owed is based on an analysis of LEC-MI's billing and AT&T's payments ("LEC-MI Billing Analysis") that I, Kurt Giedinghagen, prepared. The LEC-MI Billing Analysis was based on the LEC-MI invoice data contained in AT&T's BRAVO system. A summary of the LEC-MI Billing Analysis is attached hereto as Exhibit A.

21. Briefly summarized, the LEC-MI Billing Analysis employed the following approach. As explained above, after it discovered LEC-MI's 8YY aggregation activities, AT&T was unable to determine exactly how many of the billed minutes were in fact associated with LEC-MI's end users and thus were properly billed. AT&T therefore employed an estimate based on the average LEC-MI interstate originating volumes during the 6-months before February 2012, when LEC-MI's 8YY aggregation activities began in earnest.

22. The LEC-MI Billing Analysis used that same 6-month average – 1,874,862 minutes per month – to determine the amount of the refund owed on the invoices dated from February 2012, which was the month LEC-MI's 8YY aggregation scheme began in earnest, through July 2013, which was the date of the last invoice issued before AT&T began withholding. Specifically, that analysis took the total amount of interstate access minutes that LEC-MI billed to AT&T for a given month during that period, and then subtracted the estimate of the properly billed minutes from the total billed minutes for each month to reveal

the improperly billed minutes, including the improperly billed originating minutes. (*See* Exh. A) The local switching and shared port rates (as determined through AT&T's re-rating process) for each month were then applied to the improperly billed minutes to estimate the amount that AT&T was overcharged for that month. (*Id.*)

23. Using that method, the LEC-MI Billing Analysis showed that the total amount that LEC-MI overcharged AT&T for interstate, originating, end office access charges during the February 2012 through July 2013 period was $1,054,897. (*See* Exh. A at 2.) Accordingly, AT&T is owed a refund of $1,054,897.[1]

24. In addition to the principal amount owed, I understand that Section 5.2.9.3.3 of LEC-MI's current tariff provides for the payment of interest, at the rate of 0.0005% per day, compounded daily, on overcharges that are refunded. LECMI Tariff FCC No. 1, § 5.2.9.3.3. AT&T is entitled to interest from February 2012, when its asserted claim for overcharges began, until May 2015.[2] As shown in Exhibit A, the amount of interest owed on such overcharges at the 0.0005% daily compounded rate is $628,467.00. AT&T is also entitled to interest after June 2019, when the mediation efforts broke down.[3]

[1] I understand that, during early discussions between the parties, LEC-MI representatives indicated that they had also calculated the amount by which AT&T was overcharged for interstate, originating, end office access charges, and that LEC-MI's calculation was not materially different from AT&T's calculation – specifically, a difference of approximately 4%.

[2] AT&T has chosen to forego interest after May 2015 because, at that point, AT&T decided to move forward with a formal complaint against GLC and Westphalia, and requested that its complaint against LEC-MI be stayed pending the outcome of the proceedings against the other parties. AT&T does, however, seek interest beginning again after June 2019, when the mediation efforts broke down.

[3] AT&T does not provide a calculation of the post-June 2019 interest because the amount will increase each month until the dispute is resolved.

25. As a Director with responsibility for AT&T's access payment operations, I am made aware of instances in which a LEC employs an agent for access billing, and also of instances in which a LEC has not received a payment, or is experiencing problems with payment. From at least January 2012 until LEC-MI stopped using Westphalia as its billing agent in 2014, I am aware of no complaints from LEC-MI that LEC-MI did not receive any of the access charges, including end office charges, that AT&T paid to Westphalia based on the bills Westphalia issued to AT&T on behalf of LEC-MI. Also, at all relevant times, Westphalia held itself out as LEC-MI's agent for billing and, through the vendor, sent, and accepted payment on, access bills to AT&T for traffic associated with LEC-MI. At no time did LEC-MI represent or in any way indicate to AT&T that Westphalia, working through its vendor, was not LEC-MI's billing agent for access charges or otherwise was not authorized to serve as LEC-MI's agent for access billing for any category of access charges, including end office charges.

26. In addition, I am aware of the amounts AT&T has paid on access bills, and in cases where AT&T has been overcharged and paid the overcharged amounts, I am aware of whether AT&T has received a refund or otherwise been compensated for the overcharges it paid. AT&T has not recovered the above-described overcharged amounts from LEC-MI or any other party. At one point, LEC-MI raised the prospect of issuing billing credits to AT&T for the overpaid amounts, but no such billing credits have been granted to AT&T. Nor has AT&T recovered any of the overcharged amounts from any other carrier or source. In particular, I understand that GLC and certain of its affiliates, including Westphalia, filed a petition for bankruptcy, that AT&T entered into a settlement agreement that resolved claims that the bankruptcy estate and AT&T had against each other. However, AT&T's claims

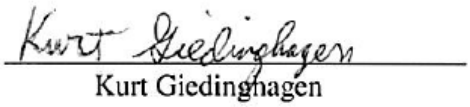
against the estate, and the related settlement agreement, only concerned tandem and transport charges, and not the end office charges that AT&T seeks to recover from LEC-MI. AT&T therefore received no compensation for the end office overcharges in connection with the GLC bankruptcy.

CERTIFICATIONS

I certify under penalty of perjury that the foregoing is true and correct. Executed on August 2, 2019.

Geri L. Lancaster

I certify under penalty of perjury that the foregoing is true and correct. Executed on August 2, 2019.



Kurt Giedinghagen

Joint Declaration

Exhibit A

Estimated Overpayment

BILL MONTH	InterState	Intrastate	Total
Feb-12	$34,594	$36,301	$70,895
Mar-12	$47,909	$37,402	$85,311
Apr-12	$38,625	$27,328	$65,953
May-12	$65,472	$45,630	$111,102
Jun-12	$62,139	$43,702	$105,840
Jul-12	$38,653	$26,127	$64,780
Aug-12	$37,859	$31,107	$68,966
Sep-12	$51,582	$44,407	$95,988
Oct-12	$59,207	$35,995	$95,202
Nov-12	$66,149	$103,701	$169,850
Dec-12	$65,048	$39,645	$104,693
Jan-13	$65,291	$39,286	$104,577
Feb-13	$56,935	$43,411	$100,346
Mar-13	$66,263	$48,578	$114,842
Apr-13	$66,695	$48,925	$115,619
May-13	$80,338	$52,104	$132,442
Jun-13	$80,602	$51,549	$132,151
Jul-13	$71,538	$48,643	$120,181
Aug-13			$0
Sep-13			$0
Oct-13			$0
Nov-13			$0
Dec-13			$0
Jan-14			$0
Feb-14			$0
Grand Total	$1,054,897	$803,840	**$1,858,737**

Interest - Interstate

	Overpayment	Cum	Interest		Days		18.25%
Feb-12	$34,594	$34,594	$505	Feb-12	29		0.000500
Mar-12	$47,909	$83,008	$1,296	Mar-12	31		0.000500
Apr-12	$38,625	$122,929	$1,857	Apr-12	30		0.000500
May-12	$65,472	$190,258	$2,971	May-12	31		0.000500
Jun-12	$62,139	$255,368	$3,858	Jun-12	30		0.000500
Jul-12	$38,653	$297,880	$4,652	Jul-12	31		0.000500
Aug-12	$37,859	$340,390	$5,316	Aug-12	31		0.000500
Sep-12	$51,582	$397,287	$6,003	Sep-12	30		0.000500
Oct-12	$59,207	$462,497	$7,223	Oct-12	31		0.000500
Nov-12	$66,149	$535,868	$8,097	Nov-12	30		0.000500
Dec-12	$65,048	$609,013	$9,511	Dec-12	31		0.000500
Jan-13	$65,291	$683,815	$10,679	Jan-13	31		0.000500
Feb-13	$56,935	$751,429	$10,591	Feb-13	28		0.000500
Mar-13	$66,263	$828,283	$12,935	Mar-13	31		0.000500
Apr-13	$66,695	$907,913	$13,718	Apr-13	30		0.000500
May-13	$80,338	$1,001,969	$15,648	May-13	31		0.000500
Jun-13	$80,602	$1,098,219	$16,593	Jun-13	30		0.000500
Jul-13	$71,538	$1,186,350	$18,527	Jul-13	31		0.000500
Aug-13		$1,204,877	$18,816	Aug-13	31		0.000500
Sep-13		$1,223,693	$18,489	Sep-13	30		0.000500
Oct-13		$1,242,182	$19,399	Oct-13	31		0.000500
Nov-13		$1,261,581	$19,062	Nov-13	30		0.000500
Dec-13		$1,280,643	$20,000	Dec-13	31		0.000500
Jan-14		$1,300,642	$20,312	Jan-14	31		0.000500
Feb-14		$1,320,954	$18,619	Feb-14	28		0.000500
Mar-14		$1,339,573	$20,920	Mar-14	31		0.000500
Apr-14		$1,360,493	$20,556	Apr-14	30		0.000500
May-14		$1,381,049	$21,568	May-14	31		0.000500
Jun-14		$1,402,617	$21,192	Jun-14	30		0.000500
Jul-14		$1,423,809	$22,235	Jul-14	31		0.000500
Aug-14		$1,446,044	$22,583	Aug-14	31		0.000500
Sep-14		$1,468,627	$22,190	Sep-14	30		0.000500
Oct-14		$1,490,817	$23,282	Oct-14	31		0.000500
Nov-14		$1,514,099	$22,877	Nov-14	30		0.000500
Dec-14		$1,536,976	$24,003	Dec-14	31		0.000500
Jan-15		$1,560,978	$24,378	Jan-15	31		0.000500
Feb-15		$1,585,356	$22,345	Feb-15	28		0.000500
Mar-15		$1,607,701	$25,107	Mar-15	31		0.000500
Apr-15		$1,632,808	$24,671	Apr-15	30		0.000500
May-15		$1,657,479	$25,885	May-15	31		0.000500
Jun-15		$1,683,363		Jun-15	30		0.000500
Jul-15		$1,683,363		Jul-15	31		0.000500
Aug-15		$1,683,363		Aug-15	31		0.000500
Sep-15		$1,683,363		Sep-15	30		0.000500
Oct-15		$1,683,363		Oct-15	31		0.000500
Nov-15		$1,683,363		Nov-15	30		0.000500
Dec-15		$1,683,363		Dec-15	31		0.000500
Jan-16		$1,683,363		Jan-16	31		0.000500
Feb-16		$1,683,363		Feb-16	29		0.000500
Mar-16		$1,683,363		Mar-16	31		0.000500
Apr-16		$1,683,363		Apr-16	30		0.000500

Interest – Interstate Cont'd

	Overpayment	Cum	Interest		Days		18.25%
May-16		$1,683,363		May-16	31		0.000500
Jun-16		$1,683,363		Jun-16	30		0.000500
Jul-16		$1,683,363		Jul-16	31		0.000500
Aug-16		$1,683,363		Aug-16	31		0.000500
Sep-16		$1,683,363		Sep-16	30		0.000500
Oct-16		$1,683,363		Oct-16	31		0.000500
Nov-16		$1,683,363		Nov-16	30		0.000500
Dec-16		$1,683,363		Dec-16	31		0.000500
Jan-17		$1,683,363		Jan-17	31		0.000500
Feb-17		$1,683,363		Feb-17	28		0.000500
Mar-17		$1,683,363		Mar-17	31		0.000500
Apr-17		$1,683,363		Apr-17	30		0.000500
May-17		$1,683,363		May-17	31		0.000500
Jun-17		$1,683,363		Jun-17	30		0.000500
Jul-17		$1,683,363		Jul-17	31		0.000500
Aug-17		$1,683,363		Aug-17	31		0.000500
Sep-17		$1,683,363		Sep-17	30		0.000500
Oct-17		$1,683,363		Oct-17	31		0.000500
Nov-17		$1,683,363		Nov-17	30		0.000500
Dec-17		$1,683,363		Dec-17	31		0.000500
Jan-18		$1,683,363		Jan-18	31		0.000500
Feb-18		$1,683,363		Feb-18	28		0.000500
Mar-18		$1,683,363		Mar-18	31		0.000500
Apr-18		$1,683,363		Apr-18	30		0.000500
May-18		$1,683,363		May-18	31		0.000500
Jun-18		$1,683,363		Jun-18	30		0.000500
Jul-18		$1,683,363		Jul-18	31		0.000500
Aug-18		$1,683,363		Aug-18	31		0.000500
Sep-18		$1,683,363		Sep-18	30		0.000500
Oct-18		$1,683,363		Oct-18	31		0.000500
Nov-18		$1,683,363		Nov-18	30		0.000500
Dec-18		$1,683,363		Dec-18	31		0.000500
Jan-19		$1,683,363		Jan-19	31		0.000500
Feb-19		$1,683,363		Feb-19	28		0.000500
Mar-19		$1,683,363		Mar-19	31		0.000500
Apr-19		$1,683,363		Apr-19	30		0.000500
May-19		$1,683,363		May-19	31		0.000500
Jun-19		$1,683,363		Jun-19	30		0.000500
Jul-19		$1,683,363		Jul-19	31		0.000500
x							
	$1,054,897		$628,467				

Interest – Intrastate

	Overpayment	Cum	Interest		Days		18.25%
Feb-12	$36,301	$36,301	$530	Feb-12	29		0.000500
Mar-12	$37,402	$74,233	$1,159	Mar-12	31		0.000500
Apr-12	$27,328	$102,720	$1,552	Apr-12	30		0.000500
May-12	$45,630	$149,902	$2,341	May-12	31		0.000500
Jun-12	$43,702	$195,945	$2,961	Jun-12	30		0.000500
Jul-12	$26,127	$225,032	$3,514	Jul-12	31		0.000500
Aug-12	$31,107	$259,653	$4,055	Aug-12	31		0.000500
Sep-12	$44,407	$308,115	$4,655	Sep-12	30		0.000500
Oct-12	$35,995	$348,766	$5,447	Oct-12	31		0.000500
Nov-12	$103,701	$457,914	$6,919	Nov-12	30		0.000500
Dec-12	$39,645	$504,477	$7,878	Dec-12	31		0.000500
Jan-13	$39,286	$551,642	$8,615	Jan-13	31		0.000500
Feb-13	$43,411	$603,668	$8,509	Feb-13	28		0.000500
Mar-13	$48,578	$660,755	$10,319	Mar-13	31		0.000500
Apr-13	$48,925	$719,998	$10,879	Apr-13	30		0.000500
May-13	$52,104	$782,981	$12,228	May-13	31		0.000500
Jun-13	$51,549	$846,758	$12,794	Jun-13	30		0.000500
Jul-13	$48,643	$908,194	$14,183	Jul-13	31		0.000500
Aug-13		$922,377	$14,405		31		0.000500
Sep-13		$936,782	$14,154	Sep-13	30		0.000500
Oct-13		$950,936	$14,851	Oct-13	31		0.000500
Nov-13		$965,786	$14,592	Nov-13	30		0.000500
Dec-13		$980,379	$15,310	Dec-13	31		0.000500
Jan-14		$995,689	$15,549	Jan-14	31		0.000500
Feb-14		$1,011,239	$14,253	Feb-14	28		0.000500
Mar-14		$1,025,492	$16,015	Mar-14	31		0.000500
Apr-14		$1,041,507	$15,736	Apr-14	30		0.000500
May-14		$1,057,243	$16,511	May-14	31		0.000500
Jun-14		$1,073,754	$16,224	Jun-14	30		0.000500
Jul-14		$1,089,978	$17,022	Jul-14	31		0.000500
Aug-14		$1,107,000	$17,288	Aug-14	31		0.000500
Sep-14		$1,124,288	$16,987	Sep-14	30		0.000500
Oct-14		$1,141,275	$17,823	Oct-14	31		0.000500
Nov-14		$1,159,098	$17,513	Nov-14	30		0.000500
Dec-14		$1,176,611	$18,375	Dec-14	31		0.000500
Jan-15		$1,194,986	$18,662	Jan-15	31		0.000500
Feb-15		$1,213,648	$17,106	Feb-15	28		0.000500
Mar-15		$1,230,754	$19,220	Mar-15	31		0.000500
Apr-15		$1,249,974	$18,886	Apr-15	30		0.000500
May-15		$1,268,861	$19,816	May-15	31		0.000500
Jun-15		$1,288,676		Jun-15	30		0.000500
Jul-15		$1,288,676		Jul-15	31		0.000500
Aug-15		$1,288,676		Aug-15	31		0.000500
Sep-15		$1,288,676		Sep-15	30		0.000500
Oct-15		$1,288,676		Oct-15	31		0.000500
Nov-15		$1,288,676		Nov-15	30		0.000500
Dec-15		$1,288,676		Dec-15	31		0.000500
Jan-16		$1,288,676		Jan-16	31		0.000500
Feb-16		$1,288,676		Feb-16	29		0.000500
Mar-16		$1,288,676		Mar-16	31		0.000500
Apr-16		$1,288,676		Apr-16	30		0.000500

Interest – Intrastate Cont'd

	Overpayment	Cum	Interest		Days		18.25%
May-16		$1,288,676		May-16	31		0.000500
Jun-16		$1,288,676		Jun-16	**30**		0.000500
Jul-16		$1,288,676		Jul-16	31		0.000500
Aug-16		$1,288,676		Aug-16	**31**		0.000500
Sep-16		$1,288,676		Sep-16	**30**		0.000500
Oct-16		$1,288,676		Oct-16	31		0.000500
Nov-16		$1,288,676		Nov-16	**30**		0.000500
Dec-16		$1,288,676		Dec-16	31		0.000500
Jan-17		$1,288,676		Jan-17	31		0.000500
Feb-17		$1,288,676		Feb-17	28		0.000500
Mar-17		$1,288,676		Mar-17	31		0.000500
Apr-17		$1,288,676		Apr-17	**30**		0.000500
May-17		$1,288,676		May-17	31		0.000500
Jun-17		$1,288,676		Jun-17	**30**		0.000500
Jul-17		$1,288,676		Jul-17	31		0.000500
Aug-17		$1,288,676		Aug-17	31		0.000500
Sep-17		$1,288,676		Sep-16	**30**		0.000500
Oct-17		$1,288,676		Oct-16	31		0.000500
Nov-17		$1,288,676		Nov-16	**30**		0.000500
Dec-17		$1,288,676		Dec-16	31		0.000500
Jan-18		$1,288,676		Jan-17	31		0.000500
Feb-18		$1,288,676		Feb-17	28		0.000500
Mar-18		$1,288,676		Mar-17	31		0.000500
Apr-18		$1,288,676		Apr-18	**30**		0.000500
May-18		$1,288,676		May-18	31		0.000500
Jun-18		$1,288,676		Jun-18	**30**		0.000500
Jul-18		$1,288,676		Jul-18	31		0.000500
Aug-18		$1,288,676		Aug-18	31		0.000500
Sep-18		$1,288,676		Sep-18	**30**		0.000500
Oct-18		$1,288,676		Oct-18	31		0.000500
Nov-18		$1,288,676		Nov-18	**30**		0.000500
Dec-18		$1,288,676		Dec-18	31		0.000500
Jan-19		$1,288,676		Jan-19	31		0.000500
Feb-19		$1,288,676		Feb-19	28		0.000500
Mar-19		$1,288,676		Mar-19	31		0.000500
Apr-19		$1,288,676		Apr-19	**30**		0.000500
May-19		$1,288,676		May-19	31		0.000500
Jun-19		$1,288,676		Jun-19	**30**		0.000500
Jul-19		$1,288,676		Jul-19	31		0.000500
	$803,840		$484,836				

Intrastate

ST LEVEL CODE	2550											
CLLI	SFLDMIDICA0											
JURIS	Intrastate											
DIR	(All)											
				Billed $	Port		Effective Rate			Est Overpayment		
BILL MONTH	MOU	Average "norm	Est Aggregate	LS	Port	Total	LS	Port		LS	Port	Total
Feb-12	2,932,838	531,489	2,401,349	$44,336		$44,336	$0.015117	$0.000000		$36,301	$0	$36,301
Mar-12	3,588,676	531,489	3,057,187	$43,904		$43,904	$0.012234	$0.000000		$37,402	$0	$37,402
Apr-12	2,765,251	531,489	2,233,762	$33,830		$33,830	$0.012234	$0.000000		$27,328	$0	$27,328
May-12	4,261,270	531,489	3,729,781	$52,132		$52,132	$0.012234	$0.000000		$45,630	$0	$45,630
Jun-12	4,103,643	531,489	3,572,154	$50,204		$50,204	$0.012234	$0.000000		$43,702	$0	$43,702
Jul-12	2,667,069	531,489	2,135,580	$32,629		$32,629	$0.012234	$0.000000		$26,127	$0	$26,127
Aug-12	2,730,245	531,489	2,198,756	$38,626		$38,626	$0.014148	$0.000000		$31,107	$0	$31,107
Sep-12	3,492,612	531,489	2,961,123	$52,377		$52,377	$0.014997	$0.000000		$44,407	$0	$44,407
Oct-12	3,586,589	531,489	3,055,100	$42,257		$42,257	$0.011782	$0.000000		$35,995	$0	$35,995
Nov-12	9,349,483	531,489	8,817,994	$109,952		$109,952	$0.011760	$0.000000		$103,701	$0	$103,701
Dec-12	3,886,730	531,489	3,355,241	$45,925		$45,925	$0.011816	$0.000000		$39,645	$0	$39,645
Jan-13	3,845,314	531,489	3,313,825	$45,587		$45,587	$0.011855	$0.000000		$39,286	$0	$39,286
Feb-13	4,927,442	531,489	4,395,953	$48,660		$48,660	$0.009875	$0.000000		$43,411	$0	$43,411
Mar-13	5,725,931	531,489	5,194,442	$53,549		$53,549	$0.009352	$0.000000		$48,578	$0	$48,578
Apr-13	5,762,957	531,489	5,231,468	$53,895		$53,895	$0.009352	$0.000000		$48,925	$0	$48,925
May-13	6,271,107	531,489	5,739,618	$50,871	$6,058	$56,929	$0.008112	$0.000966		$46,560	$5,544	$52,104
Jun-13	6,209,914	531,489	5,678,425	$50,375	$5,999	$56,374	$0.008112	$0.000966		$46,063	$5,485	$51,549
Jul-13	5,889,782	531,489	5,358,293	$47,778	$5,690	$53,467	$0.008112	$0.000966		$43,466	$5,176	$48,643
Aug-13	6,172,610	531,489	5,641,121	$47,882	$5,702	$53,584	$0.007757	$0.000924		$43,759	$5,211	$48,970
Sep-13	6,037,639	531,489	5,506,150	$46,182	$5,499	$51,681	$0.007649	$0.000911		$42,117	$5,015	$47,132
Oct-13	6,215,338	531,489	5,683,849	$47,428	$5,648	$53,076	$0.007631	$0.000909		$43,372	$5,165	$48,537
Nov-13	6,430,525	531,489	5,899,036	$49,064	$5,843	$54,906	$0.007630	$0.000909		$45,008	$5,360	$50,368
Dec-13	6,166,256	531,489	5,634,767	$46,730	$5,565	$52,295	$0.007578	$0.000902		$42,702	$5,085	$47,787
Jan-14	6,405,513	531,489	5,874,024	$48,665	$5,795	$54,461	$0.007597	$0.000905		$44,627	$5,314	$49,942
Feb-14	6,071,532	531,489	5,540,043	$35,319	$4,204	$39,522	$0.005817	$0.000692		$32,227	$3,836	$36,063
Grand Total	125,496,266			$1,218,156	$56,001	$1,274,158				$1,081,447	$51,192	$1,132,639

201108	547,725
201109	645,507
201110	529,218
201111	485,780
201112	501,597
201201	479,107
	531,489

Interstate

ST LEVEL CODE											
CLLI											
JURIS											
DIR											
			Billed $			Effective Rate			Est Overpayment		
BILL MONTH	Average "norm	Est Aggregate	LS	Port	Total	LS	Port		LS	Port	Total
Feb-12	1,874,862	9,646,830	$41,317		$41,317	$0.003586	$0.000000		$34,594	$0	$34,594
Mar-12	1,874,862	13,360,102	$54,633		$54,633	$0.003586	$0.000000		$47,909	$0	$47,909
Apr-12	1,874,862	10,770,986	$45,348		$45,348	$0.003586	$0.000000		$38,625	$0	$38,625
May-12	1,874,862	18,257,591	$72,195		$72,195	$0.003586	$0.000000		$65,472	$0	$65,472
Jun-12	1,874,862	17,328,083	$68,862		$68,862	$0.003586	$0.000000		$62,139	$0	$62,139
Jul-12	1,874,862	10,778,924	$45,376		$45,376	$0.003586	$0.000000		$38,653	$0	$38,653
Aug-12	1,874,862	10,557,328	$44,582		$44,582	$0.003586	$0.000000		$37,859	$0	$37,859
Sep-12	1,874,862	14,384,167	$58,305		$58,305	$0.003586	$0.000000		$51,582	$0	$51,582
Oct-12	1,874,862	16,510,531	$65,930		$65,930	$0.003586	$0.000000		$59,207	$0	$59,207
Nov-12	1,874,862	18,446,387	$72,872		$72,872	$0.003586	$0.000000		$66,149	$0	$66,149
Dec-12	1,874,862	18,139,478	$71,771		$71,771	$0.003586	$0.000000		$65,048	$0	$65,048
Jan-13	1,874,862	18,207,073	$72,014		$72,014	$0.003586	$0.000000		$65,291	$0	$65,291
Feb-13	1,874,862	15,848,878	$63,670		$63,670	$0.003592	$0.000000		$56,935	$0	$56,935
Mar-13	1,874,862	18,437,205	$73,002		$73,002	$0.003594	$0.000000		$66,263	$0	$66,263
Apr-13	1,874,862	18,557,232	$73,433		$73,433	$0.003594	$0.000000		$66,695	$0	$66,695
May-13	1,874,862	23,039,154	$77,632	$9,243	$86,875	$0.003116	$0.000371		$71,790	$8,548	$80,338
Jun-13	1,874,862	23,115,108	$77,869	$9,271	$87,140	$0.003116	$0.000371		$72,027	$8,576	$80,602
Jul-13	1,874,862	20,515,621	$69,769	$8,307	$78,076	$0.003116	$0.000371		$63,927	$7,611	$71,538
Aug-13	1,874,862	21,429,111	$72,615	$8,646	$81,261	$0.003116	$0.000371		$66,773	$7,950	$74,723
Sep-13	1,874,862	21,161,071	$71,780	$8,546	$80,326	$0.003116	$0.000371		$65,938	$7,851	$73,789
Oct-13	1,874,862	21,782,342	$73,716	$8,777	$82,493	$0.003116	$0.000371		$67,874	$8,081	$75,955
Nov-13	1,874,862	22,620,329	$76,327	$9,088	$85,415	$0.003116	$0.000371		$70,485	$8,392	$78,877
Dec-13	1,874,862	21,420,108	$72,587	$8,642	$81,230	$0.003116	$0.000371		$66,745	$7,947	$74,692
Jan-14	1,874,862	21,028,684	$71,367	$8,497	$79,865	$0.003116	$0.000371		$65,525	$7,802	$73,327
Feb-14	1,874,862	19,788,529	$67,503	$8,037	$75,540	$0.003116	$0.000371		$61,661	$7,342	$69,003
Grand Total	46871541.67	445130860.3	$1,654,475	$87,055	$1,741,529				$1,495,163	$80,099	$1,575,262
201108			$7,234			$0.003586					
201109			$7,552			$0.003586					
201110			$6,821			$0.003586					
201111			$6,256			$0.003586					
201112			$6,534			$0.003586					
201201			$5,943			$0.003586					

Exhibit 2

Lisa B. Griffin (Commission) Grant of AT&T's Consent Motion for Wait and to Extend the Time In Which To Convert Its Informal Complaint As to LEC-MI (dated Oct 2, 2017)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

GRANTED
October 2, 2017
Deputy Chief, MDRD
Enforcement Bureau
Lisa B. Griffin

In the Matter of	
AT&T SERVICES, INC.	
Complainant,	
v.	**File No. EB-14-MDIC-0003**
Local Exchange Carriers of Michigan, Inc.; Great Lakes Comnet, Inc.; and Westphalia Telephone Co.	
Defendants.	

AT&T's CONSENT MOTION FOR WAIVER AND TO EXTEND THE TIME IN WHICH TO CONVERT ITS INFORMAL COMPLAINT AS TO LEC-MI

Pursuant to Sections 4(i), 4(j), and 208 of the Communications Act, 47 U.S.C. §§ 154(i), 154 (j), 208, Sections 1.3 and 1.718 of the Commission's Rules, 47 C.F.R. §§ 1.3, 1.718, Complainant AT&T Services, Inc. ("AT&T"), by and through counsel, hereby submits this additional Consent Motion For Waiver and to Extend the Time In Which To Convert Its Informal Complaint against Local Exchange Carriers of Michigan, Inc. ("LEC-MI"), to a Formal Complaint.

On April 4, 2014, pursuant to Section 1.716 of the Commission's rules (47 C.F.R. § 1.716), AT&T filed an informal complaint against LEC-MI, and against two other defendants, Great Lakes Comnet, Inc. ("GLC") and Westphalia Telephone Co. ("WTC")).[1] AT&T's

[1] As to GLC and WTC, AT&T Services, Inc. (along with AT&T Corp.) converted its informal complaint to a formal complaint. As discussed below, the Commission granted AT&T's formal complaint in part, and then that proceeding was dismissed upon the joint motion of AT&T, GLC, and WTC.

informal complaint was subsequently docketed by the Commission as File No. EB-14-MDIC-0003. LEC-MI filed a response to AT&T's informal complaint on May 12, 2014.

As indicated in a letter from the Commission's Staff dated September 18, 2014, and as provided in Section 1.718 of the Commission's rules (47 C.F.R. § 1.718), AT&T initially had until November 12, 2014, to convert its informal complaint to a formal complaint so that the formal complaint would be deemed to relate back to the filing date of the informal complaint.

On November 7, 2014, AT&T filed a consent motion seeking to extend the time in which it must convert its informal complaint in order for it to relate back to the filing of that complaint. The Commission granted that request the same day, on November 7, 2014, and allowed AT&T an additional 90 days to convert the informal complaint into a formal complaint, until February 10, 2015.

On January 30, 2015, AT&T filed an additional consent motion seeking to extend the time in which it must convert its informal complaint in order for it to relate back to the filing of that complaint. The Commission granted that request the next business day (February 2, 2015) and allowed AT&T additional time to convert the informal complaint into a formal complaint, until May 11, 2015. On March 17, 2015, the Commission issued an *Order* granting in part AT&T's formal complaint against WTC and GLC, and GLC/WTC filed a petition for review of the *Order*.[2]

On May 8, 2015, AT&T filed an additional consent motion seeking to extend the time in which it must convert its informal complaint against LEC-MI in order for it to relate back to the filing of that complaint. In that motion, AT&T requested that the time be extended until 60 days

[2] *AT&T Services, Inc. and AT&T Corp. v. Great Lakes Comnet, Inc. and Westphalia Telephone Co.*, 30 FCC Rcd. 2586 (2015) ("*Order*"), *pet. for review denied in part, granted in part*, 823 F.3d 998 (D.C. Cir. 2016).

after the *Order* "becomes final and non-appealable." The Commission granted the consent motion in a letter order issued on May 11, 2015.

On May 24, 2016, the D.C. Circuit issued an opinion that remanded the *Order* back to the Commission as to one of the issues raised in the petition for review. *Great Lakes Comnet v. FCC*, 823 F.3d 998 (D.C. Cir. 2016). Following the remand, and upon a joint motion from AT&T, GLC, and WTC, the Commission issued an order dated May 4, 2017, which dismissed with prejudice AT&T's formal complaint against GLC and WTC. Order of Dismissal, *AT&T v. GLC*, DA 17-415, Proceeding No. 14-222 (May 4, 2017).

On June 23, 2017, AT&T filed an additional consent motion for waiver and to extend the time in which to convert its informal complaint as to LEC-MI, and the Commission granted the motion on June 26, 2017, and allowed AT&T until October 2, 2017, in which to convert its informal complaint.

Since the Commission's most recent order, AT&T and LEC-MI have continued negotiations to try to resolve their dispute, without the need for additional proceedings at the Commission. While the parties continue to make progress, their negotiations have not yet resulted in a resolution of the claims in dispute.

Under the current order, AT&T would need to convert its informal complaint against LEC-MI into a formal complaint by October 2, 2017. However, via this motion AT&T seeks an order from the Commission that allows AT&T until December 4, 2017, to convert its informal complaint against LEC-MI to a formal complaint so that any formal complaint against LEC-MI would be deemed to relate back to the filing date of AT&T's informal complaint

There is good cause for the extension, and granting it would serve the public interest. The parties are making continuing efforts to settle the matters in the informal complaint.

Granting the waiver and the proposed extension would promote the private resolution of disputes and would postpone the need for further litigation and expenditure of further time and resources of the parties and of the Commission until such time as may actually be necessary.

AT&T has provided a copy of this motion to counsel for LEC-MI, and is authorized to state that LEC-MI consents to the waiver and extension of time requested by AT&T. In these circumstances, the Commission has granted waivers of Rule 1.718 to allow additional time to convert an informal complaint to a formal complaint,[3] and it should do so here as well.

Accordingly, through this additional Consent Motion, AT&T seeks a waiver of Rule 1.718, to extend the time in which it must convert its informal complaint in order for it to relate back to the filing of that complaint. 47 C.F.R § 1.3 (the Commission may waive its rules for "good cause"). AT&T requests that the time to convert the informal complaint into a formal complaint be extended until December 4, 2017.

[3] *See, e.g., In the Matters of AT&T Corp. v. Advamtel, LLC, et al.*, 16 FCC Rcd. 16492 (2001).

CONCLUSION

For the foregoing reasons, AT&T's Consent Motion should be granted.

/s/ Michael J. Hunseder

Dated: September 29, 2017

Michael J. Hunseder
Paul Zidlicky
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Attorneys for AT&T Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2017, I caused a copy of the foregoing Motion to be served as indicated below on the following:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
Via Hand Delivery

Lisa Griffin
A.J. DeLaurentis
Market Disputes Resolution Division
Enforcement Bureau
Federal Communications Commission
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/s/ Michael J. Hunseder

Michael J. Hunseder

Exhibit 3

Letter from Michael J. Hunseder, Counsel to AT&T Services Inc., to Rosemary McEnery, Chief, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-14-MDIC-0003 (emailed April 4, 2014) ("AT&T Informal Complaint")

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April 4, 2014

Ms. Rosemary McEnery
Chief, Market Disputes Resolution Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Informal Complaint of AT&T against Local Exchange Carriers of Michigan, Inc., Great Lakes Comnet, Inc., and Westphalia Telephone Co.**

Dear Ms. McEnery:

AT&T Services Inc., on behalf of itself and its operating affiliates ("AT&T"), pursuant to Section 1.716 to Section 1.718 of the Commission's rules, 47 C.F.R. §§ 1.716-1.718, is hereby filing an informal complaint against Local Exchange Carriers of Michigan, Inc. ("LEC-MI"), Great Lakes Comnet, Inc. ("GLC"), and Westphalia Telephone Co. ("Westphalia"), collectively referred to as the "Defendants."

I. INTRODUCTION AND REQUEST FOR RELIEF

The three Defendants are operating an unlawful scheme to overcharge AT&T and other long distance carriers for switched access services. The traffic at issue is access stimulated traffic, which originates from one or more wireless carrier's national customers to toll-free, or "8YY," numbers. The Defendants aggregate the traffic in suburban Detroit and then haul it over 80 miles, to a location northwest of Lansing, Michigan, just so they can bill AT&T nearly 3.5 cents of tandem transport charges on each minute of use (along with other tandem-related charges). One of the Defendants (LEC-MI) also bills AT&T end office switching charges, even though the calls originate with a wireless carrier and not with the Defendant's own end users – and even though at least one other access customer receives a rebate of these (unlawful) charges.

All told, the three Defendants charge AT&T about 4.6 cents of switched access charges for each minute of every call originated to the toll-free numbers, plus a database dip charge of 0.55 cents on each call. By contrast, if this access stimulated traffic were aggregated in suburban Detroit, handed off to the nearest tandem switch, and then properly billed according to the Commission's rules, the lawful charges would be about 0.1293 cents per minute, plus a

reasonable database dip charge. In other words, the Defendants' per minute charges are inflated by more than 35 times the lawful rate.

This scheme as carried out by the Defendants is patently unreasonable, and it violates the Commission's access charge rules in numerous respects, as set forth in more detail below. Among other violations, the two Defendants operating as competitive local exchange carriers ("CLECs") have filed a tariff pursuant to the Commission's "rural" exemption. But under the Commission's narrow definition of a "rural" CLEC, the Defendant CLECs are not "rural" and are not entitled to tariff or bill pursuant to the rural exemption. In fact, one Defendant CLEC (LEC-MI) has facilities in suburban Detroit and the other (GLC) operates (among other urban areas) across the street from Chicago's McCormick Place, the nation's largest convention center. The Defendants have also failed to file revised tariffs on a timely basis, as required by the Commission's access stimulation rules – even though, based on AT&T's analysis, the amount of traffic that they have billed AT&T surpassed the 100% growth trigger that creates a presumption of revenue sharing and thus access stimulation. In addition, the end office charges that AT&T is billed by one of the Defendants (LEC-MI) are plainly unlawful, because it has been established since 2004 that LECs cannot bill such charges for traffic that does not originate or terminate with their own end users. Those charges also plainly violate LEC-MI's tariff.

Further, and even if the Defendants billed only the appropriate rate elements at the prices required by the Commission's rules, their circuitous routing (and resulting inflated billing) of the traffic would be an unreasonable practice under Section 201(b) of the Act. There is simply no reason why long distance carriers and their customers should pay the extra cost for the unnecessary step of hauling this traffic over 80 miles across Michigan. The Commission has recently prohibited a similar "mileage-pumping" scheme, and, as in that case, the additional transport charges billed by GLC/Westphalia provide no benefits to customers but only result in an increase in their costs.[1]

Indeed, the Defendants' entire arrangement is nothing more than an unlawful "sham" that is designed to evade Commission regulations and to collect inflated access revenues that no Defendant could lawfully assess individually. Two of the three Defendants – the affiliated companies Westphalia and its parent, GLC – play an entirely superfluous role in the call routing, because LEC-MI could hand the traffic off to a nearby tandem provider rather than have GLC-Westphalia haul it over 80 miles.

In short, the Defendants' routing and billing practices plainly violate the Commission's rules and the Communications Act. The Defendants should therefore (i) refund amounts they

[1] *AT&T Corp.* v. *Alpine Commc'ns, et al.*, 27 FCC Rcd. 11513, ¶¶ 44-48 (2012), *recon. denied*, 27 FCC Rcd. 16606 (2012) ("*Alpine*").

improperly billed and that AT&T paid, (ii) revise their routing practices to end unnecessary "mileage-pumping" and (iii) reduce their rates to comply with the Commission's rules.

II. FACTUAL BACKGROUND

A. The Defendants

LEC-MI. LEC-MI is a competitive LEC that operates a switch in Southfield, Michigan, a suburb of Detroit. As explained in more detail below, on the calls at issue LEC-MI's bills to AT&T include end office switching charges, even though the calls at issue are not originated by (or terminated to) any LEC-MI end users, but rather are handed off by a wireless carrier or carriers.

Westphalia. Westphalia is an incumbent LEC that operates in and around Westphalia, Michigan. As described in more detail below, on the calls at issue Westphalia initially billed AT&T for over 80 miles of transport, across LATA boundaries, plus tandem switching. Since May, 2013, Westphalia has billed AT&T about a half-mile of transport, although it is not clear whether any Westphalia facilities ever were or are actually used in the routing of the calls at issue. Westphalia also acts as a billing agent on behalf of the other two Defendants. Westphalia is owned by Clinton County Telephone Company ("CCTC") and its CEO is Paul Bowman.

GLC. Great Lakes Comnet is nominally a competitive LEC. Its CEO is also Paul Bowman. In 2011, GLC purchased CCTC, and thus Westphalia is owned by GLC. GLC operates a tandem switch in Westphalia, MI, and in this respect it purports to "compete" in the territory of its subsidiary, Westphalia. However, to AT&T's knowledge, GLC has no end user customers in Westphalia, MI. Since May 2013, GLC's function with regard to the scheme appears to be to bill (via Westphalia, its billing agent) over 80 miles of transport charges, at $0.0004180 per mile per minute, which amounts to approximately 3.5 cents per minute.

GLC has filed an interstate access tariff with the Commission, and LEC-MI is an issuing carrier for the tariff. Thus, the terms of their services are governed by that tariff.[2] Westphalia is a member of NECA and concurs in the NECA tariff.

[2] The issuing carriers of this tariff have violated Section 61.16 of the Commission's rules, because they last filed the complete base tariff on January 12, 2012, but since that time they have filed several transmittals revising the tariff without thereafter filing a revised base tariff. *See* 47 C.F.R. § 61.16(b) ("If there have been revisions that became effective up to and including the last day of the preceding month, a new Base Document must be submitted within the first five business days of the current month that will incorporate those revisions.").

B. The Calls At Issue And Defendants' Improper Charges

Beginning in or around 2010, the volume of traffic billed by the Defendants to AT&T began to increase significantly. For example, according to AT&T's records, the volume of traffic to and from AT&T through LEC-MI's switch in Southfield in November, 2009 was about 999,000 minutes of use. By May, 2010, it increased to 1.98 million minutes; in May, 2011, it increased to 7.46 million minutes, in May, 2012, it increased to 20.13 million minutes, and in May, 2013, to 24.91 million minutes.

AT&T has since learned that the increase in traffic is related to aggregated 8YY traffic originating from customers of one or more wireless carriers.[3] When customers of some wireless carriers place an 8YY call, the wireless carrier, or a provider with which the wireless carrier contracts, arranges for the calls to be handed off to LEC-MI's switch in Southfield, Michigan, near Detroit. Although there are multiple tandem switches within a relatively short distance from Southfield, Michigan, pursuant to the scheme the calls are instead transported over 80 miles to GLC's tandem switch in Westphalia, Michigan. The calls are then handed off to AT&T, which is billed an array of originating access charges by Westphalia on behalf of all three Defendants. Appendix A has maps of the relevant portions of Michigan, showing how the Defendants route the traffic more than 80 miles, across LATA boundaries, when they could use a tandem switch that is within 7 miles of the LEC-MI switch in Southfield.

On these calls, the charges to AT&T include (1) LEC-MI's charges of 0.3594 cents per minute, which include charges for end office switching (0.3116 cents per minute), shared port, and transport termination; (2) GLC's charges of 4.1994 cents per minute, which include 82.17 miles of transport charges, allegedly provided by GLC since May 2013, and billed at $0.000418 per mile per minute (3.4347 cents per minute), along with a transport termination charge of 0.2171 cents per minute, and a tandem switching charge of 0.5476 cents per minute; and (3) Westphalia's charges of 0.03469 cents per minute, which consist of 0.83 miles of transport charges at $0.000418 per minute. AT&T is also billed a database dip charge of 0.55 cents per call. In total, for the 8YY calls at issue, the Defendants bill AT&T more than 4.5935 cents per minute for origination, plus the database dip charge.

[3] As the Commission is aware, AT&T completed its acquisition of Leap Wireless (operating under the Cricket brand) on March 13, 2014. AT&T confirmed after the completion of the acquisition that a significant amount of the traffic at issue here originated from Cricket. Cricket does not directly terminate traffic to any of the Defendants. Rather, Cricket has arrangements with certain third-party providers to route Cricket's originating 8YY traffic, and it appears that one of these providers has an arrangement with LEC-MI under which it hands off that traffic to that Defendant. Cricket intends to exercise rights it has under the contract with this provider to transition its traffic away from the third-party provider and onto AT&T's network.

Initially, the bills AT&T received showed that Westphalia, not GLC, was providing tandem switching and 83 miles of tandem transport charges. On March 20, 2013, AT&T wrote to Westphalia and LEC-MI and disputed the charges on several grounds. Among other things, AT&T pointed out that the 83 miles of transport billed by Westphalia crossed LATA boundaries, even though Westphalia's tariff provided that its access services would be provided only in or within a LATA.[4] AT&T also pointed out that Westphalia was billing AT&T tandem switching charges for a tandem that appeared to be owned and operated by GLC.

Within just a few weeks, AT&T began receiving revised bills for the calls at issue. Beginning with invoices dated May, 2013, GLC began billing both the tandem switching charges and 82.17 miles of tandem transport charges. Westphalia's bills for tandem transport decreased to just 0.83 of a mile. AT&T continued to dispute the charges on multiple grounds, and it withheld payment of certain of the access charges billed by the Defendants.

Initially, AT&T presumed that the end office charges billed by LEC-MI were associated with traffic to and from LEC-MI's own end user customers, *i.e.*, homes and businesses in or near Southfield, Michigan. However, AT&T has since learned that most or all of the end office charges are being billed on calls originated by customers of a wireless carrier or carriers. Because the calls are merely transiting LEC-MI's facilities, and because LEC-MI is not using its switch to place calls onto loops to its end user customers, the end office switching charges are unlawful. Nevertheless, LEC-MI continues to bill AT&T end office switching charges. It does so even though, as AT&T understands it, LEC-MI offers rebates or credits to at least one other access customer for these charges.

III. ARGUMENT

The Defendants' charges for switched access services to AT&T are unlawful in at least five independent respects. *First*, the tandem transport, tandem termination and tandem switching charges now being billed by GLC plainly violate the Commission's CLEC access charge rules because GLC is billing at rates that exceed those of the competing ILEC.[5]

Second, the tandem transport and tandem switching charges billed by Westphalia are improper because Westphalia did not operate the facilities used to provide the services and, in

[4] *See Alpine*, ¶¶ 31-34 (interpreting same tariff language to bar provision of interLATA transport charges).

[5] *See* 47 C.F.R. § 61.26; *see also CLEC Access Charge Reform Order*, 16 FCC Rcd. 9923 (2001), *recon.*, Eighth Report and Order, 19 FCC Rcd. 9108 (2004).

any event, the 83 miles of tandem transport charges billed prior to May, 2013 improperly crossed LATA boundaries, in violation of Westphalia's tariff.[6]

Third, the Defendants have violated the Commission's access stimulation rules.[7] According to AT&T's analysis of the minutes billed to AT&T through the LEC-MI switch, the volume of traffic billed to AT&T has increased by more than 100 percent from May, 2011 to May, 2012 (and again from June, 2011 to June, 2012), creating a presumption of a revenue sharing agreement.[8] Yet, the Defendants did not file revised tariffs on a timely basis to lower their rates to those charged by the lowest-priced price cap LEC in Michigan, as is required by the Commission's rules,.

Fourth, the end office switching charges billed by LEC-MI are improper because LEC-MI does not originate those calls from its own end user customers, but instead (at most) merely transits the traffic from a wireless carrier. Further, LEC-MI's end office charges to AT&T are discriminatory, in violation of Section 202, because it has provided rebates of those charges to at least one other customer, but not to AT&T.

Fifth, although Defendants have clearly violated the Commission's rules, even if they had not, their convoluted routing practices and inflated access charges to AT&T would be unlawful under Section 201(b), which outlaws unjust and unreasonable practices.

A. GLC's Rates Violate The Commission's CLEC Benchmarking Rules Because They Substantially Exceed The Rates Of The Competing ILEC.

Since 2001, in recognition of CLECs' monopoly power over switched access services, the Commission's rules have limited the rates that CLECs can impose on access customers through switched access tariffs. Specifically, the Commission's rules provide that a CLEC "shall not file a tariff for its interstate switched access services" that is above the "rate charged for such services by the competing ILEC." 47 C.F.R. § 61.26(b). A "competing ILEC" is the "incumbent local exchange carrier, as defined in 47 U.S.C. 251(h), that would provide interstate exchange access services, in whole or in part, to the extent those services were not provided by the CLEC." *Id.* § 61.26(a)(2). A CLEC tariff containing rates above those charged by the competing ILEC is void *ab initio*. Because the CLEC was never supposed to file such a tariff in the first instance (or

[6] NECA Tariff, 4th Revised Title Page 1, § 6.1, 10th Rev. Page 6-1; *Alpine*, ¶¶ 31-34.

[7] *Connect America Fund Order*, 26 FCC Rcd. 17663 (2011); 47 C.F.R. §§ 61.26(g); 61.3(bbb).

[8] *Connect America Fund Order*, ¶¶ 675, 699.

should re-file its tariff once its tariffed rates come out of compliance), the tariff is not lawful when filed and cannot become "deemed lawful" pursuant to 47 U.S.C. § 204(a)(3).[9]

On the calls at issue, GLC, which is a CLEC subject to Rule 61.26, accepts the traffic at LEC-MI's switch in Southfield, Michigan, transports the traffic 83 miles to its switch in Westphalia, Michigan, and then hands off the calls to IXCs. If these tandem "services were not provided by [GLC]," 47 C.F.R. § 61.26(a)(2), then the incumbent LEC that would provide these services is AT&T Michigan, which operates a tandem switch that is located about seven miles away from LEC-MI's Southfield switch. Thus, for the calls at issue, AT&T Michigan is the "competing LEC" under the Commission's CLEC access charge rules.

AT&T Michigan's tariffed rate for tandem transport is only $0.000013 per minute per mile.[10] With seven miles of transport between AT&T Michigan's tandem switch and LEC-MI's Southfield switch, the competing ILEC rate for tandem transport on the calls at issue is only $0.000091 per minute. Indeed, even if it were proper to bill for 83 miles of transport – which it is not – then the lawful charge would be just over one-tenth of a penny ($0.001079).

GLC's rates, however, are much higher than AT&T Michigan's rates. GLC's tariff provides that its rate for "Tandem Switched Transport" is "the applicable current rate at NECA Tariff F.C.C. No. 5, Section 17.2.2., Premium Access – Tandem Switched Transport."[11] This section of the NECA tariff, in turn, contains two "Rate Bands" for premium tandem switched transport: Rate Band 1, which is $0.000195 per minute per mile, and Rate Band 2, which is $0.00418 per minute per mile.[12]

GLC's tariff does not specify which NECA rate band applies, and thus is vague and ambiguous, in violation of Rules 61.2(a) and 61.25.[13] However, GLC has billed AT&T using

[9] *See* Brief For Amicus Curaie Federal Communications Commission, at 25-28, filed in *PaeTec Commc'ns* v. *MCI Commc'ns Servs.*, No. 11-2268, et al. (3d Cir., filed March 14. 2012) ("*PaeTec Amicus Brief*"). In that brief, the Commission explained that a "CLEC tariff for interstate switched access services that includes rates in excess of the benchmark in Rule 61.26 is subject to mandatory detariffing. Under that regime, a carrier is *prohibited* from filing a tariff; any attempt to do so would violate the FCC's rules and render the prohibited tariff *void ab initio*." *Id.* at 25.

[10] AT&T Tariff F.C.C. No. 2, § 6.9.1(A), 25th Rev. Page 207.1.

[11] GLC Tariff F.C.C. No. 20, § 17GLC.2.2, Original Page 17GLC-10.3.

[12] NECA Tariff F.C.C. No. 5, § 17.2.2., 7th Revised Page 17-10.2.1.2 (eff. Jan. 1, 2013).

[13] 47 C.F.R. § 61.2(a) ("In order to remove all doubt as to their proper application, all tariff publications must contain clear and explicit explanatory statements regarding the rates and regulations"); *id.* § 61.25(c) (when a non-dominant carrier cross-references another carrier's tariff, the "issuing carrier must specifically identify in its tariff the rates being cross-referenced so as to leave no doubt as to the exact rates that will apply"); *see All American Tel. Co., Tariff F.C.C. No. 3*, 25 FCC Rcd. 5661, ¶ 3 (2010).

Rate Band 2, at a rate of $0.00418 per minute per mile. As such, GLC's rates starkly and unambiguously violate the Commission's CLEC access charge rules. GLC's rate of $0.000418 per minute per mile is more than 30 times higher than the rate of AT&T Michigan, the competing ILEC on the calls at issue. What is more, GLC bills AT&T for 83 miles of transport, and thus the overall GLC tandem transport rate on the calls at issue is $0.0347 per minute. In short, for the calls at issue, GLC's billed rate for tandem transport is more than *380 times* that of the competing ILEC.

A similar conclusion applies to GLC's tandem switching charges. GLC's tariff provides that its rate for "Tandem Switching" is "the applicable current rate at NECA Tariff F.C.C. No. 5, Section 17.2.2., Premium Access – Tandem Switched Transport, Tandem Switching."[14] This section of the NECA tariff, in turn, contains two "Rate Bands" for premium tandem switching: Rate Band 1, which is $0.002564 per minute, and Rate Band 2, which is $0.005476 per minute.[15]

Again, GLC's tariff does not specify which NECA rate band applies, and thus is vague and ambiguous, in violation of Rules 61.2(a) and 61.25. However, GLC has billed AT&T using Rate Band 2, at a rate of $0.005476 per minute. As such, GLC's tandem switching rate violates the Commission's CLEC access charge rules. AT&T Michigan's tandem switching rate is $0.001084.[16] Because GLC's tandem switching rate is more than five times higher than that of the competing ILEC, its tariff is unlawful and void *ab initio.*[17]

Ostensibly in an effort to avoid the requirements of the Commission's CLEC access charge rule, GLC's tariff contains a provision stating that all issuing carriers, including GLC, are "rural CLEC[s] under Section 61.26(a)(6)" of the Commission's rules.[18] However, there is no merit whatsoever to this claim, and GLC is not entitled to bill AT&T pursuant to the Commission's "rural exemption" in Rule 61.26(e).

As the Commission has explained, its rural exemption is a "narrow" and "administratively simpl[e]" exception to the general "market-based" rule that a CLEC's tariffed rates may not exceed those of the competing ILEC. *Eighth Report and Order*, 19 FCC Rcd. 9108, ¶ 37. The exemption is available only to a CLEC "competing with a non-rural incumbent LEC" and does not apply "if *any portion* of the competitive LEC's service area falls within a

[14] GLC Tariff F.C.C. No. 20, § 17GLC.2.2, Original Page 17GLC-10.3.

[15] NECA Tariff F.C.C. No. 5, § 17.2.2., 7th Revised Page 17-10.2.1.2 (eff. Jan. 1, 2013).

[16] AT&T Tariff F.C.C. No. 2, § 6.9.1(A), 11th Rev. Page 207.1.1.1.

[17] The same is true of GLC's Transport Termination charge, which is billed at the NECA Band 2 rate of $0.002171. The comparable AT&T Michigan charge is $0.000103. AT&T Tariff F.C.C. No. 2, § 6.9.1(A), 52nd Rev. Page 207.

[18] GLC Tariff F.C.C. No. 20, § 6.4, Original Page 6-27.

non-rural area." *Id.* ¶ 33 (emphasis added). Indeed, providing service to even "a single end user in a non-rural area" is enough to "entirely disqualify" a CLEC from using the rural exemption. *Id.* ¶ 36.

GLC plainly does not qualify for the rural exemption. On its website, GLC trumpets its extensive fiber network that shows facilities in or near Chicago, Detroit, Lansing, Grand Rapids, and Ann Arbor.[19] Indeed, GLC claims to offer service in a building in Chicago that is across the street from McCormick Place, the largest convention center in North America.[20] It is thus clear that substantial portions of GLC's service territories fall within urban, not rural, areas and that the rural exemption is entirely inapplicable to GLC.[21]

As a consequence, GLC may only file a tariff for switched access services if it complies with the general market-based benchmarking rule in Rule 61.26(b), which limits GLC to the rates of the "competing ILEC," in this case AT&T Michigan. As explained above, however, GLC's tariff fails this requirement because its rates substantially exceed AT&T Michigan's rates. Accordingly, its tariff is unlawful and void *ab initio*.

B. Westphalia's Transport Charges Are Also Unlawful, Because It May Not Bill For InterLATA Services or For Services That It Does Not Provide.

Prior to May, 2013, Defendant Westphalia was billing AT&T charges for tandem switching, transport termination, and for 83 miles of tandem transport, apparently on the grounds that Westphalia was itself providing those services to AT&T. After May 2013, Westphalia halted its tandem switching charges and all but 0.83 of a mile of the tandem transport, with Westphalia's parent, GLC, billing those amounts going forward. Westphalia's charges, however, are unlawful and any amounts paid by AT&T to Westphalia on the traffic at issue should be refunded.

The plain terms of Westphalia's tariff – the NECA access tariff – bar it from providing and billing AT&T for tandem transport between Southfield and Westphalia. Southfield is in

[19] http://www.glcom.net/network/glc_network_map.pdf.

[20] http://www.glcom.net/network/glc_optical_sites.pdf (showing, for example, "service availability" at "350 E. Cermak, 5th Flr, Chicago, IL, 60616").

[21] Further, on the calls at issue, the end users originating the calls are located nationwide, undoubtedly including urban areas. Accordingly, for these calls, GLC is plainly not a "rural CLEC," which is defined as a CLEC that does not "originate traffic from any end users located within either (i) Any incorporated place of 50,000 inhabitants or more . . . . or (ii) an urbanized area." 47 C.F.R. § 61.26(a)(6).

LATA 340, whereas Westphalia is in LATA 344.[22] Transport between these two points is therefore an interLATA service.

The title page of the NECA tariff expressly circumscribes the area in which the access service (including transport) may be provided, stating that the tariff governs "the provision of Access Services *within a Local Access and Transport Area (LATA) or equivalent Market Area*."[23] Further, Section 6.1 of the tariff states that "Switched Access Service provides for the ability to originate calls from an end user's premises to a customer designated premises, and to terminate calls from a customer designated premises to an end user's premises *in the LATA where it is provided*."[24] In *Alpine*, the Commission construed these same tariff provisions, and held that the provisions made it unlawful for LECs to bill for transport services between Des Moines, Iowa, which was in LATA 632, and other points in different Iowa LATAs. *Alpine*, ¶ 34.

For the same reasons, Westphalia's provision of interLATA service between LATA 340 (Southfield) and LATA 344 (Westphalia) is barred by the plain terms of Westphalia's tariff. Indeed, Westphalia itself seems to have recognized this violation, because soon after AT&T pointed it out, the interLATA transport was suddenly being billed by its parent, GLC.

Westphalia's charges are also improper for another, independent reason – it does not provide the services for which it billed. The Commission's "long-standing policy" is that LEC "should charge only for those services that they provide." *Eighth Report and Order*, ¶ 21. Prior to May 2013, Westphalia was billing AT&T tandem switching charges, not on behalf of GLC, but as though Westphalia was itself providing the tandem switching service. However, the tandem switch for which it was billing was owned and operated by GLC. Westphalia's tandem switching charges thus are unlawful. *See also PaeTec Amicus Brief* at 12 ("If a CLEC does not provide tandem switching, it may not charge for tandem switching").

C. The Defendants Have Violated The Commission's Access Stimulation Rules.

Most of the Defendants' charges to AT&T are unlawful on an entirely independent ground: according to AT&T's analysis of the relevant bills, the Defendants are engaged in "access stimulation" under the Commission's rules, and thus they were required to filed revised tariffs that reduced their rates to no higher than the rates charged by the lowest-priced price cap carrier in Michigan. However, the Defendants failed make these required filings on a timely basis, resulting in rates that have exceeded the Commission's rules.

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[22] *See* http://www.latamaps.com/Telecom_Maps/Regional_LATA_maps/North_Central_LATA_Map_-_Maponics.pdf. *See also* Appendix A.

[23] NECA Tariff, FCC No. 5, Original Title Page 1, Access Service (emphasis added).

[24] *Id.* NECA Tariff No. 5, § 6.1, Original Page 6-1 (emphasis added).

In 2011, the Commission issued rules to curtail "access stimulation," finding that when LECs enter into arrangements that result in "significant increases in access traffic with unchanged access rates," the result is "inflated profits" and rates that "almost uniformly" are "unjust and unreasonable under Section 201(b) of the Act." *Connect America Fund Order* ¶ 657. To curtail the numerous "adverse effects of access stimulation," the Commission required LECs that engage in access stimulation to file revised tariffs with lower rates. *Id.* ¶¶ 667, 679.

The Commission's definition of "access stimulation" entails two conditions. The first is that a LEC has "either an interstate terminating-to-originating traffic ratio of at least 3:1 in a calendar month, or has had more than a 100 percent growth in interstate originating and/or terminating switched access minutes of use in a month compared to the same month in the preceding year." 47 C.F.R. § 61.3(bbb)(1)(ii).

The Defendants satisfy that first condition. As explained above, AT&T's records show that the volumes of traffic coming through the LEC-MI switch in Southfield, Michigan increased dramatically over time. Virtually all of these increases are likely associated with the 8YY aggregated traffic handled by each Defendant. In particular, and as shown in Appendix B, since the end of 2011, when the Commission's access stimulation rules became effective, the volume of interstate access minutes of use between AT&T and this switch increased by 170 percent between May, 2012 (20.13 million MOUs) and May, 2011 (7.46 million MOUs); it increased by 123 percent between June, 2012 (19.20 million MOUs) and June, 2011 (8.63 million MOUs).

The second condition of "access stimulation" is the existence of an "access revenue sharing agreement," which is an agreement "whether express, implied, written or oral, that, over the course of the agreement, would directly or indirectly result in a net payment to the other party (including affiliates) to the agreement, in which payment by the rate-of-return local exchange carrier or Competitive Local Exchange Carrier is based on the billing or collection of access charges from interexchange carriers or wireless carriers. When determining whether there is a net payment under this rule, all payments, discounts, credits, services, features, functions, and other items of value, regardless of form, provided by the rate-of-return local exchange carrier or Competitive Local Exchange Carrier to the other party to the agreement shall be taken into account." 47 C.F.R. § 61.3(bbb)(1)(i).

As the Commission has explained, its rule "focuses on revenue sharing that would result in a net payment" from the LECs to the other entity. *Connect America Fund Order* ¶ 670. Because the precise nature of any revenue sharing arrangements is generally not known by the long distance carriers, the Commission held that a "complaining carrier may rely on the 3:1 terminating-to-originating traffic ratio and/or the traffic growth factor for the traffic it exchanges with the LEC as the basis for filing a complaint. This creates a rebuttable presumption that revenue sharing is occurring and that the LEC has violated the Commission's rules. The LEC

then has the burden of showing that it does not meet both conditions of the definition." *Id.* ¶ 699.

Because AT&T's records show that the Defendants meet the traffic growth factor, there is a rebuttable presumption that there is a revenue sharing agreement for the calls at issue, thus satisfying the second condition of the Commission's definition of access stimulation. There is also good reason to believe that, in fact, Defendants have a revenue sharing agreement. Notably, in other cases involving 8YY aggregation arrangements with wireless carriers, LECs have admitted that they made payments to the wireless carriers.[25] Further, as a practical matter, there seems to be little incentive for a wireless carrier, or another provider acting on behalf of a wireless carrier, to undertake the burden of carrying its nationwide 8YY traffic to Southfield, Michigan, unless it receives a financial benefit in return.

Unless Defendants successfully rebut the presumption under the Commission's rules (either by rebutting the traffic growth data or by demonstrating that they have no revenue sharing agreement under the Commission's broad definition), then they have engaged in access stimulation within the meaning of the Commission's rules. As such, they were required to file new tariffs after they began engaging in access stimulation.[26] Those revised tariffs must reduce the Defendants' rates so that they do not exceed the rates of the lowest priced price cap LEC in Michigan.

However, the Defendants have failed to file revised tariffs on a timely basis with reduced rates that do not exceed the rates tariffed by the lowest-priced price cap LEC in the state.[27] Because they did not file revised tariffs when they were obligated to do so, Defendants cannot collect access charges under those unlawful tariffs.

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[25] *See, e.g.*, *Hypercube Telecom* v. *Level 3 Commc'ns*, 2011 WL 2907304 (Cal. PUC, July 14, 2011) (Hypercube, the aggregating CLEC, "admitted that it has contracts with certain CMRS providers pursuant to which it makes payments to the CMRS providers"); *Hypercube* v. *Comtel Telecom Assets*, 2009 WL 3075208 (N.D. Tex. Sept. 25, 2009) ("Hypercube shares its fees from [the long distance provider] with the wireless company to induce the wireless company to continue sending Hypercube calls").

[26] Further, the Commission's rules prohibit a carrier engaging in access stimulation from participating in NECA tariffs. *See Connect America Fund Order* ¶¶ 681-82. Thus, Defendant Westphalia should have withdrawn from NECA and filed its own tariff.

[27] On March 18, 2013, LEC-MI filed tariff revisions that reduced its tariffed rates, but, given the traffic growth, it should have filed those tariffs months earlier. In fact, prior to April, 2013, LEC-MI's tariffed charges violated Section 61.26 of the Commission's rules, because LEC-MI's rates exceeded those of the competing ILEC. *See* 47 C.F.R. § 61.26; *see supra* Part III.A.

D. LEC-MI Is Unlawfully Billing AT&T End Office Switching Charges For Transiting Traffic That Does Not Originate With Any LEC-MI End Users.

On the calls at issue, LEC-MI has billed AT&T end office switching charges (and related shared port and transport termination charges), but all of these charges are unlawful on at least three grounds. *First*, it has been settled since 2004 that a CLEC may not assess originating end office switching charges when it does not originate calls from its own end users. *Eighth Report and Order*, 19 FCC Rcd. 9108, ¶¶ 15-17 ("the benchmark rate established in the *CLEC Access Reform Order* is available only when a competitive LEC provides an IXC with access to the competitive LEC's own end users"). Where, as here, a CLEC merely transits traffic from a wireless carrier, it may not assess end office switching. *Id.* ¶ 21 (the "competing incumbent LEC switching rate is the end office switching rate when a competitive LEC originates or terminates calls to end-users and the tandem switching rate when a competitive LEC passes calls between two other carriers").[28]

Second, LEC-MI's charges violate the terms of its tariff, for the reasons the Commission explained in *Qwest Commc'ns. Corp.* v. *Farmers & Merchs. Mut. Tel. Co.*[29] As in that case, LEC-MI's tariff provides that "Switched Access Service provides for the ability to originate calls from an *end user*'s premises. . . ."[30] Under LEC-MI's tariff, an "End User" is a "customer" of telecommunications service "that is not a carrier," and a customer, in turn, is defined as an entity that "subscribes to the services offered under this tariff."[31]

On the calls at issue, however, LEC-MI is not "originat[ing] calls from an end user's premises" and thus not providing switched access service at all within the meaning of its tariff. The wireless carrier's customers – namely, the persons dialing the 8YY calls – are not end users or customers under LEC-MI's tariff. They do not "subscribe" to any tariffed services provided by LEC-MI; indeed, they are surely not even aware that LEC-MI plays any role in routing their call. Nor is the wireless carrier an "end user" because the tariff provides that, except in circumstances not present here, an end user is a customer "that is *not* a carrier." Accordingly, as in *Farmers*, LEC-MI's tariff bars it from billing AT&T for switched access services on the calls at issue.

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[28] Under the Commission's rules, LEC-MI may not bill *any* end office charges (or associated port or termination charges) on the traffic at issue. But even if such charges were appropriate (and they are not), LEC-MI's end office charges prior to April, 2013 are also unlawful because, for the reasons just explained above, its rates exceeded those of the competing ILEC. 47 C.F.R. § 61.26.

[29] *Qwest Commc'ns. Corp*. v. *Farmers & Merchs. Mut. Tel. Co*., 24 FCC Rcd. 14801 (2009) ("*Farmers*"), *recon. denied*, 25 FCC Rcd. 3422 (2010), *aff'd*, 668 F.3d 714 (D.C. Cir. 2011).

[30] GLC Tariff F.C.C. No. 20, § 6.1, 1st Rev. Page 6-1 (emphasis added).

[31] *Id.* § 2.6, 1st Rev. Page 2-65.1 and Original Page 2-68.

Third, AT&T has learned that LEC-MI has provided at least one other access customer a refund or credit of end office switching charges. LEC-MI has not provided any such rebate or credit to AT&T, however, and its failure to do so constitutes unlawful discrimination in violation of Section 202 of the Communications Act. Upon information and belief, the services that LEC-MI allegedly is providing to AT&T are the same as those provided to other putative access customers, and AT&T believes that it is similarly situated to the other access customer (or customers) to which LEC-MI provides rebates or credits. And there is no reasonable basis to provide rebates and/or credits to some long distance customers, but not to AT&T. LEC-MI's end office charges to AT&T thus violate Section 202.[32]

E. Defendants' Charges Are Part Of An Unlawful, Sham Arrangement, In Violation Of Section 201(b), That Raises Customers' Costs Without Providing Any Offsetting Benefits.

For the reasons set forth above, the Defendants' charges on the 8YY aggregated traffic at issue violate their own tariffs and/or the Commission's access charge rules. However, even if that were not true (or even if the Defendants revised their rates to comply with the rules), the Defendants' billing and routing practices are unlawful and unreasonable pursuant to Section 201(b) of the Act.

The Defendants have engaged in sham arrangements that have no valid purpose, other than to inflate the switched access charges billed by AT&T. In several cases, the Commission has held that carriers cannot use "sham" entities or arrangements that have no valid purpose, but that merely allow the carriers to "circumvent regulation" and "capture access revenues that could not otherwise be obtained by lawful tariffs."[33] Likewise, the Commission has recognized that

[32] As set forth above, LEC-MI's end office charges are barred by the Commission's rules and its tariffs. However, to the extent such charges are permitted under the tariff, but LEC-MI nonetheless is crediting or rebating these charges to some customer or customers, LEC-MI's credit and/or rebate would also violate the plain terms of Section 203(c) of the Act, which provides that no carrier shall "refund or remit by any means or device any portion of the charges so specified." 47 U.S.C. § 203(c).

[33] *AT&T and Sprint Petitions for Declaratory Ruling on CLEC Access Charge Issues*, 16 FCC Rcd. 19158, ¶ 22 n.33 (2001) (it is unlawful under Section 201(b) to create "a company that purport[s] to be a *bona fide* carrier but which instead [is] simply a sham creation, designed to facilitate an arrangement among several entities to capture access revenues that could not otherwise be obtained by lawful tariffs"), *overruled on other grounds*, *AT&T Corp*. v. *FCC*, 292 F.3d 808 (D.C. Cir. 2002); *see Establishing Just and Reasonable Rates for Local Exchange Carriers*, 22 FCC Rcd. 11629, ¶ 6 n.20 (2007) (the Commission has "found that an arrangement between a chat line service provider and competitive access provider (formed by an ILEC for purposes of the arrangement) that did not provide local exchange service and had no customers other than the chat line was a sham"); *Total Telecomm. Servs. Inc.* v. *AT&T Corp.*, 16 FCC Rcd. 5726, ¶¶ 15-18 (2001), *aff'd in relevant part sub nom. AT&T Corp*. v. *FCC*, 317 F.3d 227, 233 (D.C. Cir. 2003) ("the entire arrangement was devised solely in order to circumvent regulation . . .

LECs cannot "manipulat[e]" routing arrangements, with the intent and effect of 'pumping' mileage charges" without providing long distance carriers or their customers with benefits that offset the increased routing costs. *Alpine* ¶¶ 44-45.

This is precisely what is occurring here. To the extent it is appropriate for a wireless carrier's 8YY traffic to be aggregated, that function can be accomplished much more simply, at much lower cost, ordinarily using a single LEC. Most notably, AT&T is aware of no valid reason why the calls, once aggregated at LEC-MI's switch in Southfield, cannot be handed off at one of the numerous tandems in or around suburban Detroit. In addition to AT&T Michigan, other providers, including Frontier, operate switches in the area.[34] Use of one of these other tandem switches would reduce the tandem transport mileage charges from 83 miles to about 7 miles.

In that instance, the cost for originating these calls would be about $0.001293 per minute, plus a reasonable database dip charge. The per minute charges would include a tandem switching charge, plus a tandem transport charge with about 7 miles of transport mileage. By contrast, the Defendants charge about 4.6 cents for each minute of originating traffic, plus a database dip charge.

The Defendants – by introducing two additional, affiliated LECs into the call routing, by hauling the traffic over 80 miles across Michigan, and by assessing high rates that do not reflect the efficiencies of carrying large volumes of traffic – have created a convoluted and costly sham routing arrangement that serves no valid purpose. In this regard, neither Westphalia nor its parent GLC appears to perform any valid or necessary function on these calls.[35] Rather, they

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[and] deserves to be treated as a sham"); *AT&T Corp.* v. *All American Tel. Co*, 28 FCC Rcd. 3477 (2013) (it was an unreasonable practice for a LEC and chat room provider to use a sham CLEC to act as a vehicle to bill access charges so that rates would increase and then avoid regulation that would reduce the rates).

[34] Although AT&T Michigan's tandem is, as a factual matter, closest to LEC-MI's switch, AT&T is not asserting that it is unlawful or unreasonable for the Defendants to use a competitive tandem provider. However, it is well-established that the use of competitive facilities cannot ordinarily result in customers paying *higher* prices than those charged by the incumbent. *See CLEC Access Reform Order* ¶ 37 ("it is highly unusual for a competitor to enter a market at a price dramatically above the price charged by the incumbent, absent a differentiated service offering"). Thus, if the Defendants want to use competitive tandem services, the resulting charges for the competitive services should not be priced above what the services would cost if the incumbents' services were used.

[35] Indeed, LEC-MI's switch was at one time connected to AT&T Michigan's nearby tandem. *See Hypercube*, 2009 WL 3075208 (finding that, under the Commission's CLEC access rules, the Commission did not intend to allow "unnecessary intermediate LECs demanding payment from IXCs. The FCC surely did not intend to require IXCs to pay LEC who are merely profiting from the FCC's rulings. . . . A company that provides no additional value to anyone may not unnecessarily insert itself into a chain of carriers").

appear to be inserted into the call routing path solely to justify billing of additional access charges. This is especially indefensible in light of the fact that GLC and Westphalia are commonly owned and operated, and that GLC was suddenly substituted as the service provider when AT&T pointed out that Westphalia could not lawfully bill for tandem switching or tandem transport.[36]

For these reasons, the Defendants' routing and billing arrangements would violate Section 201(b) even if their charges were consistent with the Commission's rules. In particular, even if the Defendants' rates were tariffed at the levels required by the Commission rules, they should not be permitted to bill over 80 miles of tandem transport charges that are unnecessary and simply raise the costs of their customers and long distance users.

Sincerely,

/s/ Michael J. Hunseder

Michael J. Hunseder

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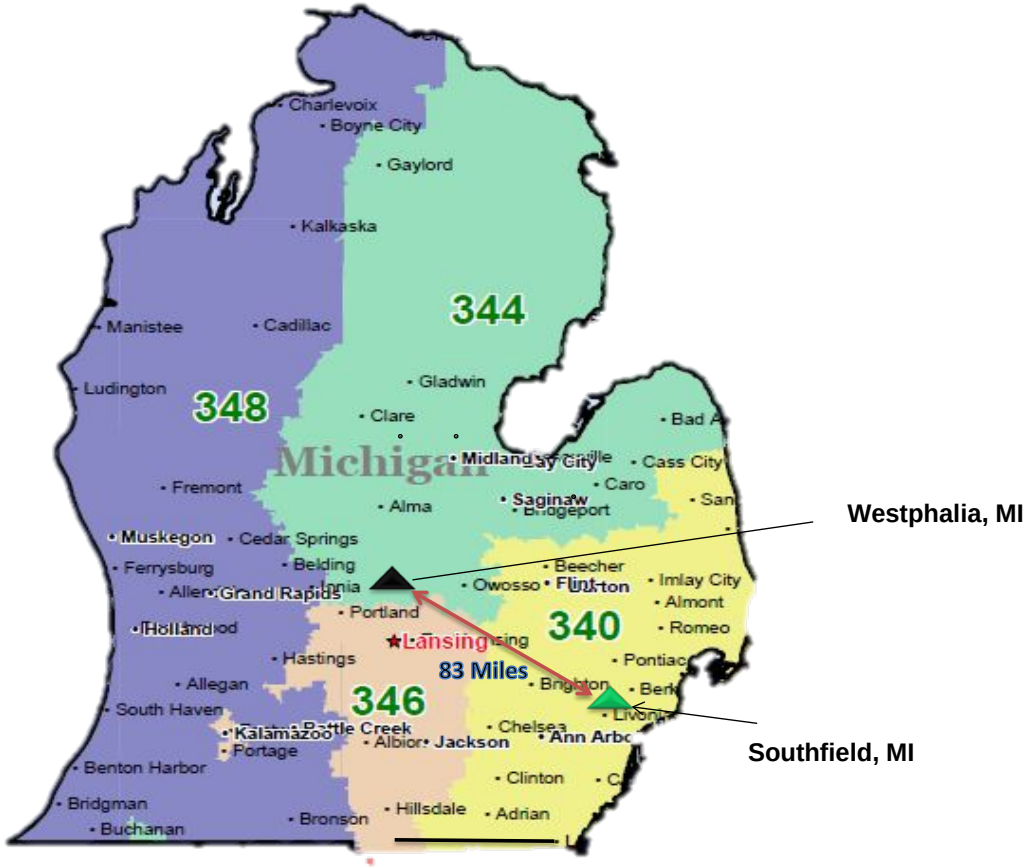
[36] *Cf. All-American*, ¶¶ 3-21, 24-28 (finding an unreasonable sham arrangement where an incumbent LEC created a nominally "competitive" LEC that operated within the ILEC's territory, and when the CLEC suddenly began issuing bills for services previously provided by the ILEC, in order to bill inflated access rates).

APPENDIX A

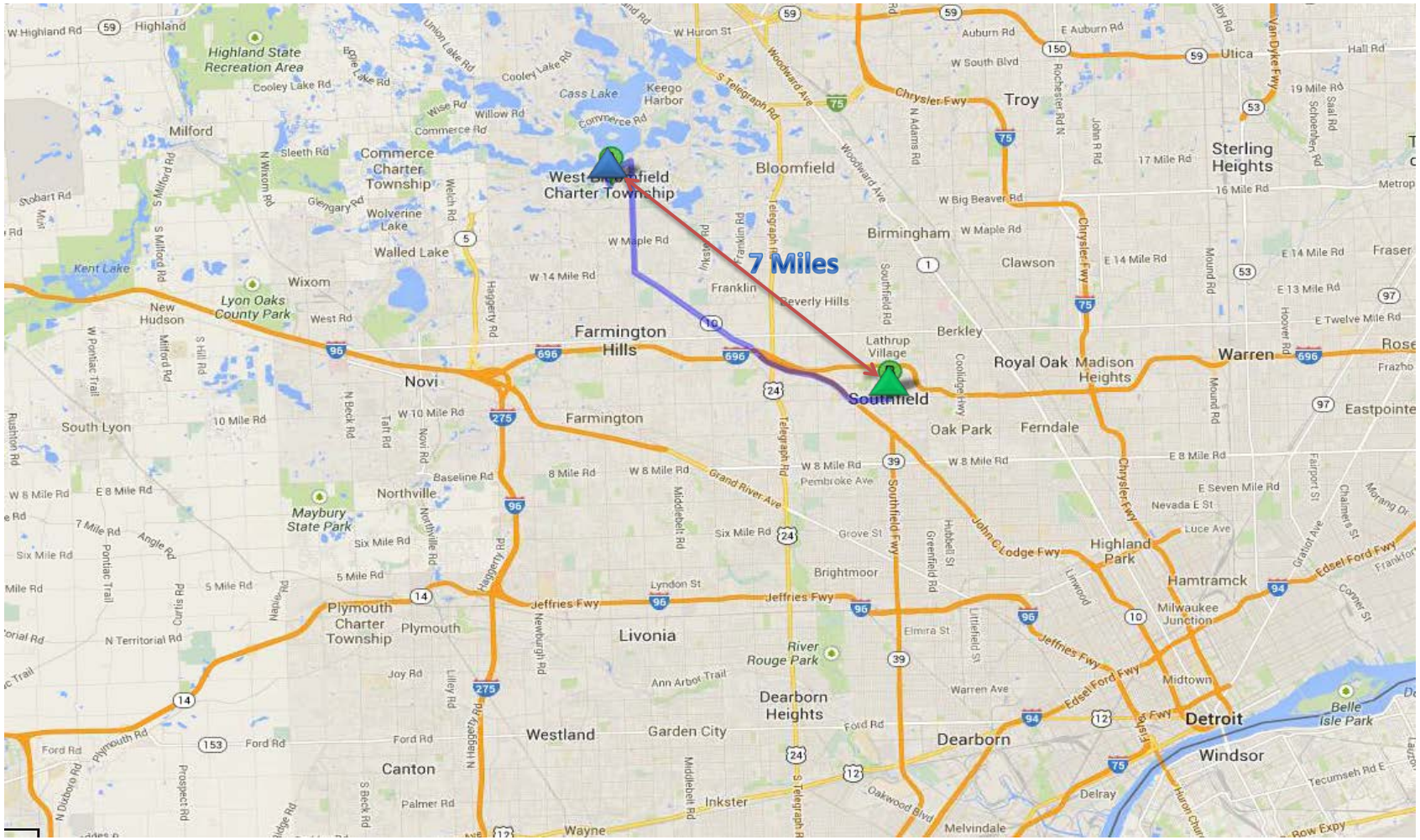
Network Map of Defendants' Facilities



Orig and Term Tandem Switch in Westphalia
LEC MI Switch in Southfield

Distance between GLC tandem switch and LEC MI Switch

Network Map for Switch Locations of LEC-MI Switch and Ameritech Michigan Tandem



LEC-MI Switch in Southfield, MI

Ameritech Tandem switch in West Bloomfield, MI

APPENDIX B

Billed Minutes of Use To ATT Through LEC-MI, Southfield Switch

Month	Interstate MOU	Year over Year % Growth
Jan-11	6,364,862	
Feb-11	5,987,389	
Mar-11	7,968,765	
Apr-11	6,580,393	
May-11	**7,458,389**	
Jun-11	**8,626,284**	
Jul-11	10,640,380	
Aug-11	12,035,922	
Sep-11	14,448,319	
Oct-11	14,919,017	
Nov-11	14,206,592	
Dec-11	14,305,410	
Jan-12	12,576,395	98%
Feb-12	11,521,692	92%
Mar-12	15,234,964	91%
Apr-12	12,645,848	92%
May-12	**20,132,453**	**170%**
Jun-12	**19,202,945**	**123%**
Jul-12	12,653,786	19%
Aug-12	12,432,190	3%
Sep-12	16,259,029	13%
Oct-12	18,385,393	23%
Nov-12	20,321,249	43%
Dec-12	20,014,340	40%
Jan-13	20,081,935	60%
Feb-13	17,723,740	54%
Mar-13	20,312,067	33%
Apr-13	20,432,094	62%
May-13	24,914,016	24%
Jun-13	24,989,970	30%
Jul-13	22,390,483	77%
Aug-13	23,303,973	87%
Sep-13	23,035,933	42%
Oct-13	23,657,204	29%
Nov-13	24,495,191	21%
Dec-13	23,294,970	16%
Jan-14	22,903,546	14%
Feb-14	21,663,391	22%

Exhibit 4

Letter to R. McEnery, FCC, from R. Severy, Verizon, A. Sherr, CenturyLink, and K. Buell, Sprint, File No. EB-14-MDIC-0001 (emailed Feb. 26, 2014) ("IXC Informal Complaint")

February 26, 2014

Ms. Rosemary McEnery
Chief, Market Disputes Resolution Division
Enforcement Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Verizon, CenturyLink and Sprint's Informal Complaint Against Local Exchange Carriers of Michigan, Inc; Great Lakes Comnet, Inc; and Westphalia Telephone Company

Pursuant to 47 C.F.R. § 1.716, the following interexchange carriers -- MCI Communications Services, Inc. d/b/a Verizon Business Services ("Verizon"); Qwest Communications Company, LLC d/b/a CenturyLink QCC ("CenturyLink"); and Sprint Communications Company L.P. ("Sprint") (collectively "Complainants") -- bring this informal complaint against Local Exchange Carriers of Michigan, Inc. ("LEC MI"), Great Lakes Comnet ("GLC"), and Westphalia Telephone Company ("WTC") (collectively "Defendants").

Defendants have established unlawful arrangements (1) to stimulate an enormous increase in interstate switched access traffic that exceeds the traffic pumping benchmark in Section 61.3(bbb)(1)(i) of the Commission's rules, and (2) to route all such access traffic to a tandem switch 83 miles away, instead of through a nearby AT&T Michigan tandem (7 miles away), in order to generate unreasonable and excessive interstate switched access charges. The Commission has found that such "mileage pumping" arrangements violate Section 201(b) of the Act. *AT&T v. Alpine*, 27 FCC Rcd 11511 (2012). Defendants' switched access rates should be no higher than those of the price cap LEC "with the lowest switched access rates in the state"[1] but, even if not, their rates cannot be higher than the general CLEC benchmark, i.e., the access rates of the competing ILEC.[2] Defendants' access rates greatly exceed both benchmarks and thus violate the Commission's rules. Defendants are billing Complainants a tandem switched transport rate that is **209 times higher** than that of the price cap LEC with the lowest rates in Michigan (Frontier) and more than **30 times higher** than the rate charged by the competing ILEC (AT&T Michigan).

WTC (which is the billing agent for the three Defendants) bills IXCs for 83 miles of transport to a distant tandem switch in a different LATA at a rate of $0.0004180 per minute per mile, for a total per minute rate of $0.035. In contrast, more efficient and reasonable tandem routing at the legally correct rates would result in drastically lower charges. Transporting the calls seven (7) miles to the nearest ILEC tandem switch and applying the competing ILEC's rate of $0.000013 per minute

[1] 47 C.F.R. § 61.26(g)(1) (specifying maximum tariff rates for a CLEC engaging in access stimulation).

[2] 47 C.F.R. § 61.26(b)(1).

per mile would result in a transport charge of less than one-hundredth of a cent. WTC charges 69 cents ($0.69) for transport on a 20-minute call, whereas the lawful charge for such a call is far less than a penny ($0.0018). In fact, WTC is billing the interexchange carriers ("IXCs") **381 times** as much as the competing ILEC would bill for the same transport service. Defendants' billing practices have resulted in tens of millions of dollars in excessive, unjustified charges billed to the Complainants.

Defendants have violated section 201 of the Communications Act, 47 U.S.C. § 201, by failing to route interexchange traffic in a reasonable, cost-effective manner and by refusing to establish alternative routing arrangements that would avoid excessive mileage charges. Because Defendants' charges to Complainants are unlawful under sections 201 and 203 of the Act, Complainants respectfully request that the Commission order Defendants to revise their bills to each Complainant, issue credits to each of the Complainants equal to the amounts Defendants have unlawfully billed them, and refund to each of the Complainants all unlawful charges that the Complainants have paid to Defendants.

FACTUAL BACKGROUND

A. The Parties

Local Exchange Carriers of Michigan, Inc. ("LEC MI") is a competitive local exchange carrier in Southfield, Michigan, which is a suburb of Detroit. Great Lakes Comnet ("GLC") is a competitive local exchange carrier that provides tandem switching services in Michigan. Its tandem switch is in Westphalia, MI, east of Lansing. The distance between LEC MI's end office switch in Southfield and GLC's tandem switch is 83 miles. Westphalia Telephone Company ("WTC") is a local exchange carrier in Michigan that also provides billing services for other carriers, including LEC MI and GLC.

The three Defendants have several interlocking relationships and, indeed, two of the companies – GLC and WTC -- are commonly-owned and operated.[3] GLC has filed interstate and intrastate switched access tariffs.[4] Those tariffs also include the rates, terms and conditions for access services provided by LEC MI and several other local exchange carriers.[5] As a result, LEC MI does not maintain its own access tariffs; rather, GLC files any tariff revisions on behalf of LEC MI (and other local exchange carriers) within GLC's own tariffs. WTC also operates as a billing

[3] WTC is a wholly-owned subsidiary of Clinton County Telephone Company ("CCTC"), which also invested in GLC. On September 30, 2011, GLC purchased all of the issued and outstanding stock in CCTC. CCTC and its subsidiaries, including WTC, are now wholly-owned by GLC. WTC and GLC share the same Chief Executive Officer, Mr. Paul Bowman.

[4] Great Lakes Comnet, Inc. Tariff F.C.C. No. 20 and Great Lakes Comnet, Inc. Tariff M.P.S.C. No. 25(R).

[5] *See, e.g.,* Great Lakes Comnet, Inc. Tariff F.C.C. No. 20, Section 17LECMI (Pages 17LECMI-I through Page 17LECMI-11.1).

company for LEC MI and GLC. WTC provides consolidated billing by sending each of the Complainants a monthly invoice that includes charges for services purportedly provided by LEC MI, GLC, WTC, and a fourth entity, Westphalia Broadband, Inc. Those invoices contain rates and charges that do not comply with the Commission's pricing rules applicable to CLEC switched access charges, as described below. The Defendants also cooperated in establishing traffic routing arrangements that resulted in unnecessarily high transport charges that form the primary basis for the Complainants' ongoing billing disputes and precipitated this complaint. LEC MI routes most, if not all, of the switched access traffic at issue through GLC's tandem switch. The transport path between LEC MI and GLC goes through WTC's service area and WTC charges the IXCs for a portion of the transport mileage charges.

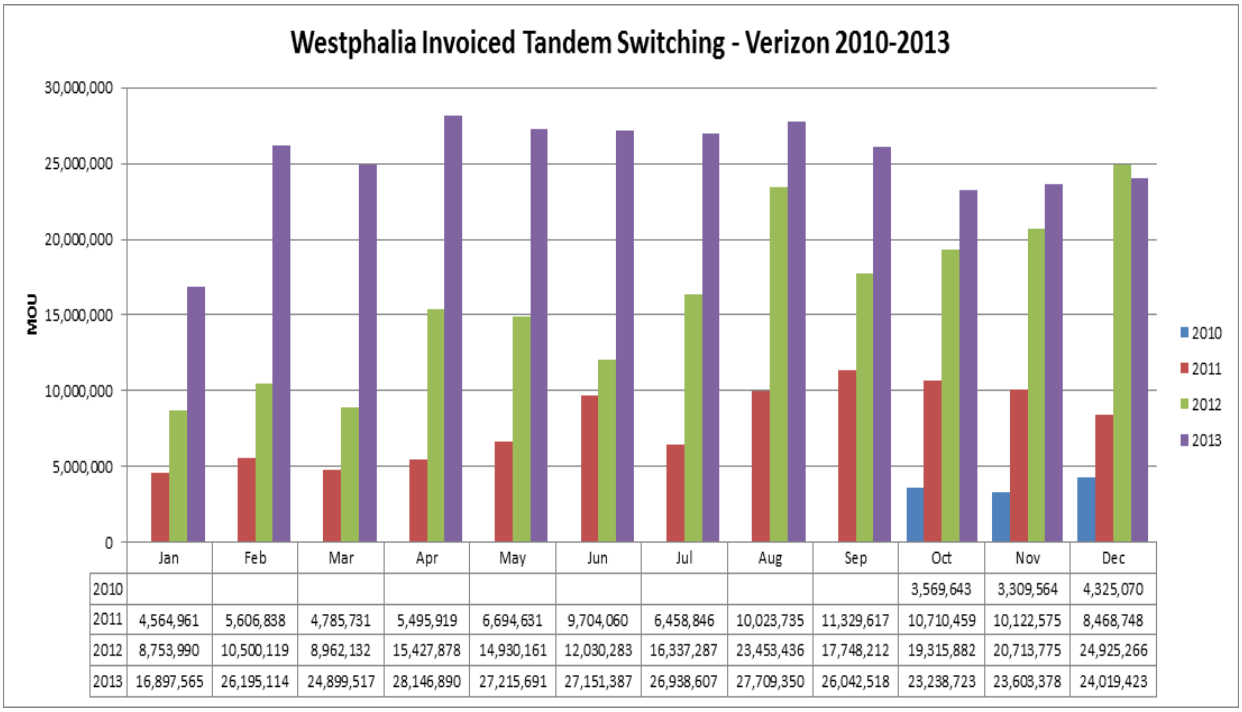
The Complainants -- Verizon, CenturyLink and Sprint -- are IXCs. Each has been billed by the Defendants and each has disputed various charges.

B. The Traffic at Issue and the Rates Defendants Have Charged

While individual Complainants may have disputed various charges billed by WTC prior to 2012, the issues began escalating in early 2012, when LEC MI began aggregating substantial volumes of toll-free (8YY) traffic that appeared to be originated by a wireless company's end users throughout the country.[6] This resulted in an enormous spike in the amount of switched access traffic delivered by LEC MI and the other Defendants to each of the Complainants, as demonstrated on the following three pages. The vast majority of the traffic is interstate.

[6] Ordinarily, 8YY calls placed by consumers in Texas or California are routed by the local carrier to the interexchange carrier that serves the toll-free customer (after performing an 8YY database dip); the IXC then delivers the call to its customer. Under the arrangement at issue here, all of the toll-free calls generated anywhere in the country by the CMRS provider's end users are routed to LEC MI's switch near Detroit, and then to GLC's distant tandem before being handed off to the appropriate IXC.

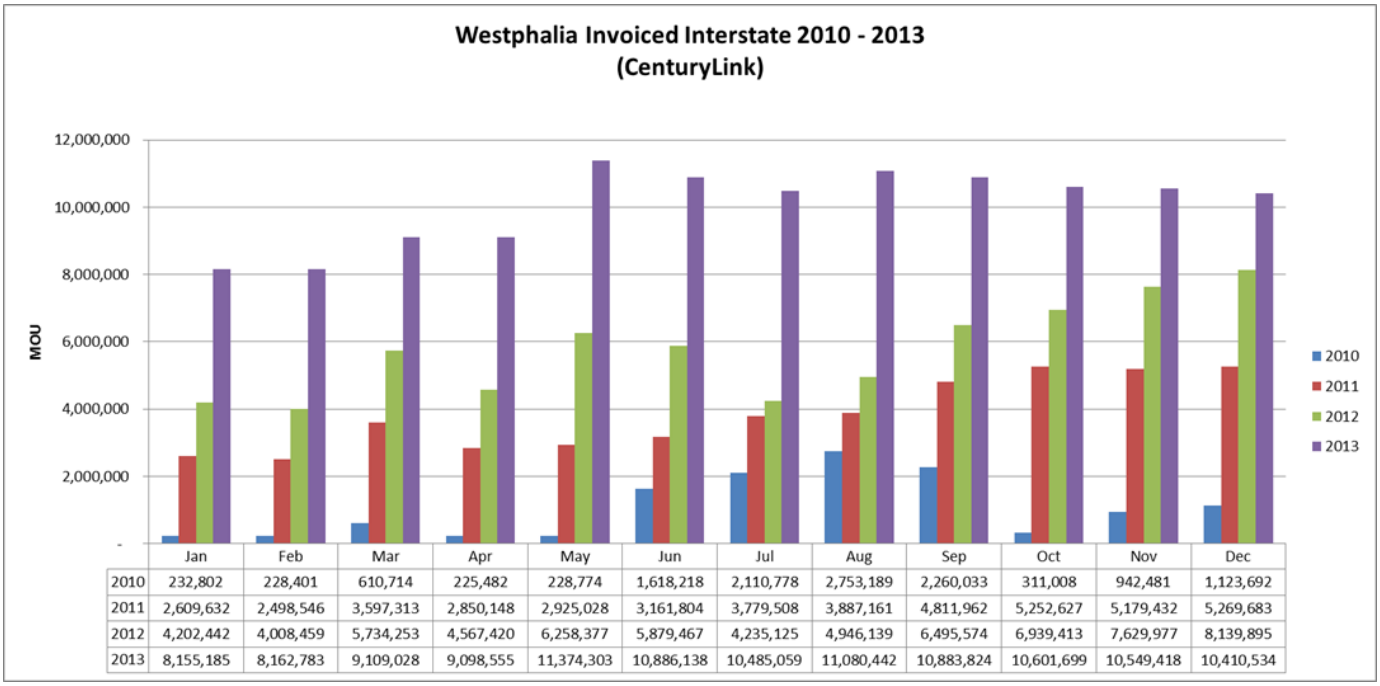
For example, WTC invoiced Verizon for 5,495,919 tandem switching minutes of use ("MOUs") in April 2011. In April 2012, that figure jumped to 15,427,878 MOUs. Similarly, in December 2011, WTC billed Verizon for 8,468,748 tandem switching MOUs. A year later, the number of MOUs increased to 24,925,266.[7] These figures represent nearly a three-fold increase in the amount of tandem switched traffic year-over-year.



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010										3,569,643	3,309,564	4,325,070
2011	4,564,961	5,606,838	4,785,731	5,495,919	6,694,631	9,704,060	6,458,846	10,023,735	11,329,617	10,710,459	10,122,575	8,468,748
2012	8,753,990	10,500,119	8,962,132	15,427,878	14,930,161	12,030,283	16,337,287	23,453,436	17,748,212	19,315,882	20,713,775	24,925,266
2013	16,897,565	26,195,114	24,899,517	28,146,890	27,215,691	27,151,387	26,938,607	27,709,350	26,042,518	23,238,723	23,603,378	24,019,423

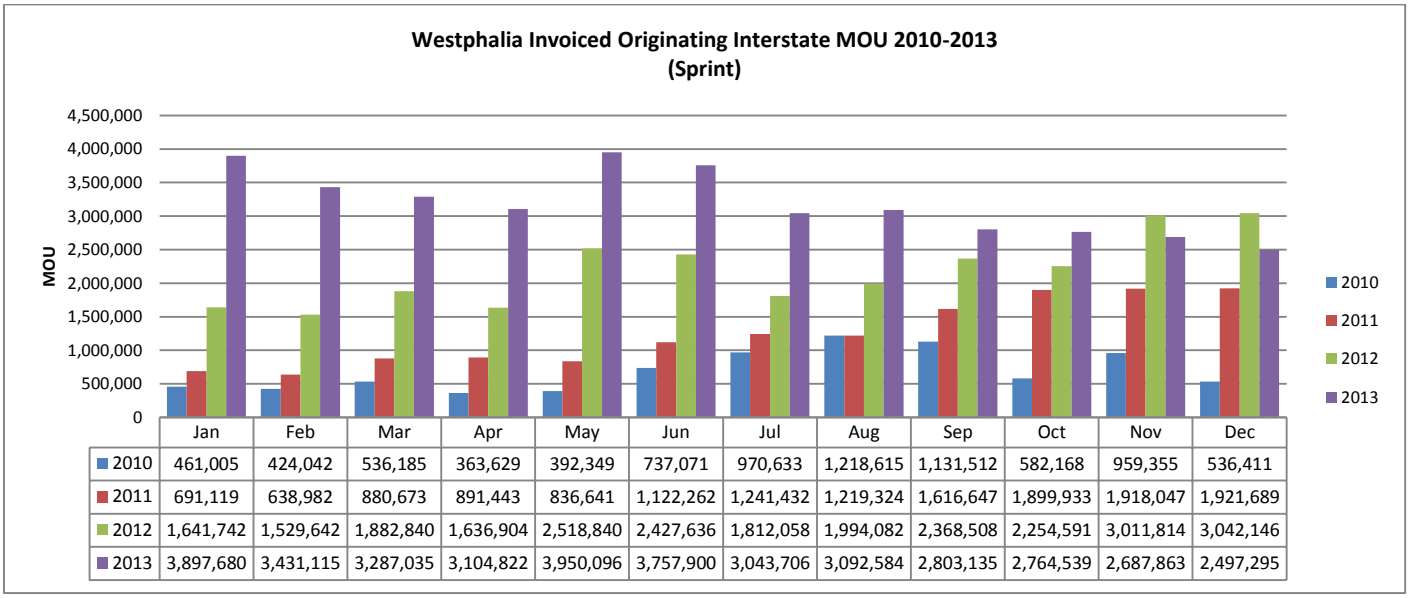
[7] The figures shown in the text are interstate minutes of use. Even though about 90% of the 8YY traffic delivered to Verizon is interstate, WTC applied a default PIU factor in many of its invoices, which led to an understatement of the amount of interstate MOUs billed.

Similarly, WTC invoiced CenturyLink for 2,925,028 tandem switching MOUs in May 2011. That number jumped to 6,258,377 MOUs in May 2012, and 11,374,303 MOUs in May 2013. This pattern has recurred between 2010 and 2013. From January 2010 to December 2013, WTC's billing to CenturyLink skyrocketed from 232,808 MOUs to 10,410,534 MOUs. This is nearly a 45-fold increase. WTC's increases in billings to CenturyLink are reflected in the following graph.



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	232,802	228,401	610,714	225,482	228,774	1,618,218	2,110,778	2,753,189	2,260,033	311,008	942,481	1,123,692
2011	2,609,632	2,498,546	3,597,313	2,850,148	2,925,028	3,161,804	3,779,508	3,887,161	4,811,962	5,252,627	5,179,432	5,269,683
2012	4,202,442	4,008,459	5,734,253	4,567,420	6,258,377	5,879,467	4,235,125	4,946,139	6,495,574	6,939,413	7,629,977	8,139,895
2013	8,155,185	8,162,783	9,109,028	9,098,555	11,374,303	10,886,138	10,485,059	11,080,442	10,883,824	10,601,699	10,549,418	10,410,534

Sprint's experience is also similar. For example, WTC invoiced Sprint for 880,673 originating interstate tandem switching MOUs in March 2011. In March 2012, that figure jumped by 113%, to 1,882,840 originating interstate MOUs. Similarly, in May 2011, WTC billed Sprint for 836,641 originating interstate tandem switching MOUs. A year later, the number of originating MOUs more than tripled, to 2,518,840. The growth in traffic witnessed by Sprint is reflected on the following chart.



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	461,005	424,042	536,185	363,629	392,349	737,071	970,633	1,218,615	1,131,512	582,168	959,355	536,411
2011	691,119	638,982	880,673	891,443	836,641	1,122,262	1,241,432	1,219,324	1,616,647	1,899,933	1,918,047	1,921,689
2012	1,641,742	1,529,642	1,882,840	1,636,904	2,518,840	2,427,636	1,812,058	1,994,082	2,368,508	2,254,591	3,011,814	3,042,146
2013	3,897,680	3,431,115	3,287,035	3,104,822	3,950,096	3,757,900	3,043,706	3,092,584	2,803,135	2,764,539	2,687,863	2,497,295

LEC MI routes all of the 8YY and other switched access traffic across LATA boundaries to GLC's tandem switch, a distance of 83 miles. GLC subsequently hands off the traffic to each of the Complainants. Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan"), the largest local exchange carrier in the Detroit area, owns and operates a tandem switch located approximately seven (7) miles from LEC MI's end office in Southfield. On information and belief, Inteliquent also operates a tandem switch within a few miles of LEC MI's end office. Despite the presence of these two nearby tandems, LEC MI does not route access traffic through either of one of them. Instead, it routes all of the switched access traffic to GLC's distant tandem, thereby unnecessarily increasing tandem switched transport mileage charges.

GLC provides the transport between the LEC MI and GLC switches, as well as tandem switching functions. To do so, GLC presumably arranged to construct or lease facilities outside of its local exchange area, including in the service areas of two incumbent LECs, AT&T Michigan and Frontier Telephone Company ("Frontier"), in order to transport the traffic from LEC MI's Southfield end office to GLC's tandem in Westphalia. This was accomplished in cooperation with LEC MI, as it is LEC MI that initially routes the traffic through its end office to GLC's distant tandem, and with WTC, as the traffic is also transported through its service area and WTC bills Complainants for a portion of the transport charges (even though there is no evidence that any of the traffic is carried over WTC's facilities).

WTC bills Complainants (on behalf of GLC and WTC) for the 83 miles of transport, at the NECA rate (which is referenced in GLC's tariff) of $0.0004180 per minute per mile.[8] This rate is more than **30 times higher** than AT&T Michigan's interstate tariff rate for tandem switched transport. The AT&T Michigan rate is only $0.000013 per minute per mile, while Frontier charges even less, $0.000002 per minute per mile.[9] Multiplying GLC's rate by 83 miles produces a charge of 3.47 cents per minute, which is the amount that WTC bills each of the Complainants.[10] Since LEC MI began aggregating substantial volumes of nationwide CMRS traffic, this arrangement has resulted in a huge increase in GLC's transport and tandem switching charges.

Under the Commission's rules, a CLEC engaged in access stimulation may not charge switched access rates higher than those of "the price cap LEC with the lowest switched access rates in the state."[11] Even if that rule is not applicable, a CLEC is required to comply with the general CLEC benchmark rule, under which a CLEC may not charge rates higher than those charged by "the competing ILEC."[12] In this case, the competing ILEC is AT&T Michigan. Had the traffic been appropriately handed to the AT&T tandem, there would have been 7 miles or less of transport billed at the AT&T rate.

The Defendants have chosen to route aggregated traffic through LEC MI, sending that traffic 83 miles away to the GLC tandem, regardless of the fact that there are closer tandem switch locations. Complainants are unaware of any network efficiencies gained by this unorthodox routing scheme. Rather, by routing traffic through a distant tandem instead of through a tandem switch located close to LEC MI's end office, Defendants have increased the charges to IXCs and toll-free service providers and have failed to route switched access traffic to Complainants in a reasonable and cost-effective manner.[13] This imposition of excessive transport charges on Complainants fails to provide any corresponding benefits to consumers.

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[8] Nearly 99% of the end office-to-tandem transport charges shown on WTC-issued invoices are billed on behalf of GLC. The remaining 1% is billed by WTC, even though it is not clear whether any of the traffic is transported on WTC's network. GLC and WTC both charge the same rate for transport.

[9] AT&T Corp. Tariff F.C.C. No. 2, § 17.15.1.B (AT&T Michigan's transport rate in Frontier territory is $0.000002 per minute per mile); Frontier Telephone Companies Tariff FCC No. 5, § 4.6.2(A).

[10] Intrastate traffic is billed at the rates in the carriers' intrastate tariffs.

[11] 47 C.F.R. § 61.26(g)(1).

[12] *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers,* Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923 (2001) ("*CLEC Price Cap Order*"); 47 C.F.R. § 61.26(b).

[13] As explained below, LEC MI has also declined to implement direct trunking to an IXC's network, which would minimize or eliminate the excessive access charges.

CLAIMS

All of the Complainants have disputed a number of Defendants' charges and, for the most part, their claims are similar. To the extent possible, this informal complaint identifies issues and claims that the Complainants have in common. Because some of the facts are specific to each Complainant, and some individual Complainants have additional claims that are particular to their experience, those issues are described below with a notation that the specific claim is being raised by an individual Complainant.

GLC's Transport Charges are Unjust and Unreasonable in Violation of Section 201 of the Act. The Communications Act requires that "[a]ll charges, practices, classifications, and regulations for and in connection with [interstate] communication service, shall be just and reasonable". 47 U.S.C. § 201(b). In order to ensure that CLEC switched access rates are just and reasonable, the Commission established a benchmark rate more than a dozen years ago, and held that CLEC rates priced at or below the benchmark are presumptively reasonable.[14] To implement the benchmark requirement, the Commission adopted a rule which prohibits a CLEC (including the Defendants here) from tariffing switched access rates higher than those charged by the competing ILEC. 47 C.F.R. § 61.26(b).

Access traffic transported by GLC between Southfield and Westphalia originates in and traverses AT&T Michigan's service area, and then passes through Frontier's territory before reaching the GLC tandem. WTC is billing Complainants the NECA transport rate for traffic ($0.0004180 per minute per mile) over the entire 83-mile route, including traffic carried within the service areas of AT&T Michigan and Frontier. The rate charged by GLC is more than **30 times higher** than AT&T Michigan's tariff rate for tandem transport, which is only $0.000013 per minute. GLC's rate is also **209 times higher** than Frontier's tandem transport rate of $0.000002 per minute per mile.[15]

GLC is a CLEC, and is required to comply with the Commission's CLEC benchmark rule for transport services. Under 47 C.F.R. § 61.26(b), GLC may not charge rates that are higher than those charged by "the competing ILEC." The competing ILEC is AT&T Michigan because the access traffic originates in and transverses AT&T Michigan's service area. WTC is not billing Complainants the rates charged by the competing ILEC. Instead, it is billing Complainants GLC's higher rates, even though it is transporting access traffic through the service areas of AT&T Michigan and Frontier.

Because GLC is billing Complainants a rate that exceeds the benchmark, it is in violation of the Commission's rate cap rule for CLECs. Accordingly, its rate for switched transport is unjust and unreasonable in violation of Section 201 of the Act.

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[14] *CLEC Price Cap Order*, ¶¶ 40-45.

[15] *See* page 7 and n. 9, *supra*.

Although the Commission created a "narrow exemption" from the benchmark rules to allow some CLECs in rural areas to charge access rates higher than the competing ILEC, Defendants are not entitled to that "rural exemption" here.[16] That rule applies in the following, limited circumstances:

> We conclude that the rural exemption to our benchmark limitation on access charges will be available for a CLEC competing with a non-rural ILEC, where no portion of the CLEC's service area falls within: (1) any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or (2) an urbanized area, as defined by the Census Bureau. Thus, if any portion of a CLEC's access traffic originates from or terminates to end users located within either of these two types of areas, the carrier will be ineligible for the rural exemption to our benchmark rule. Relying on information that is readily and publicly available, this definition excludes from the exemption those CLECs operating within reasonably dense areas that are not typically considered as rural.[17]

The vast majority of traffic billed to Complainants by WTC originates in the Southfield wire center owned by LEC MI. According to the latest census figures, Southfield has a population of 72,507,[18] which does not qualify this location as rural. Thus, the rural exemption does not apply to the Defendants' access traffic. Defendants must comply with the benchmark rules and, thus, may not charge switched access rates higher than those of the competing ILEC. Because they have charged rates that exceed the benchmark, their access rates are unjust, unreasonable and unlawful.

Defendants are Engaged in an Unlawful "Mileage Pumping" Scheme. As in the recent *Alpine* case,[19] LEC MI and GLC have manipulated the points of interconnection "with the intent and effect of 'pumping' mileage charges," a practice the Commission ruled is unjust and unreasonable in violation of § 201(b) of the Act. AT&T Michigan and Inteliquent each operate tandem switches located seven miles or less from LEC MI's end office in Southfield. Both are presumably capable of handling all of the 8YY and other switched access traffic routed through LEC MI's end office. LEC MI, however, has failed to deliver traffic to the Complainant IXCs in the most direct and cost-effective manner by routing calls through one of the nearby tandems.

Complainants are unaware of any network efficiencies gained by this unorthodox routing scheme. Indeed, there is no legitimate technical or other reason – and Defendants have not

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[16] *CLEC Price Cap Order*, ¶¶ 64-76; *see also Access Charge Reform, PrairieWave Telecommunications, Inc. Petition for Waiver of Sections 61.26(b) and (c), et al,* Order, FCC 08-49, CC Docket No. 96-262, ¶ 4 (Feb. 14, 2008).

[17] *CLEC Price Cap Order*, ¶ 76.

[18] http://www.city-data.com/city/Southfield-Michigan.html.

[19] *AT&T v. Alpine Communications, LLC*, 27 FCC Rcd 11511 (2012), reconsideration denied, 27 FCC Rcd 16606 (2012).

articulated one -- why a CLEC would route large amounts of traffic from an urban area (a Detroit suburb) to a distant, rural tandem office in a different LATA, then back to the urban area, before handing the traffic off to IXCs. Rather, by routing traffic through a distant tandem instead of through a tandem switch located close to LEC MI's end office, Defendants have failed to route switched access traffic to Complainants in a reasonable and cost-effective manner. In so doing, they have dramatically increased the charges to IXCs. As the Commission held in *Alpine*, there is no justification for imposing additional mileage costs on IXCs without providing any corresponding benefits to consumers -- of which there are none here.

Defendants are acting in concert to route the traffic at issue. The access traffic is initially switched by LEC MI, which has chosen not to route the traffic in the most efficient and cost-effective manner. Instead, it arranged with GLC to have GLC pick up and transport large volumes of access traffic across LATA boundaries between LEC MI's end office in Southfield and the GLC tandem switch in Westphalia. GLC took the steps necessary to lease or establish transport and associated facilities in AT&T Michigan's service territory in order to transport the traffic across LATA boundaries, and through Frontier's service territory, to its distant tandem switch in Westphalia. Both LEC MI and GLC are culpable because they jointly agreed to route the traffic in the manner described above. WTC, in turn, bills the unnecessarily inflated mileage charges on behalf of GLC and itself.

Because Defendants' routing arrangements are unjust and unreasonable, the excessive tandem transport charges they have billed Complainants are also unreasonable and unlawful.

LEC MI's Refusal to Provide Direct Connections and Route the Switched Access Traffic to Verizon Was Unreasonable (Verizon Claim). As explained above, the Defendants' routing arrangement, designed to extract excessive mileage charges, is an unreasonable practice under the *Alpine* precedent. Not only did LEC MI choose not to route traffic to a tandem switch much closer to its end office in the same LATA, but it also declined to implement measures requested by Verizon that would minimize or eliminate the excessive transport charges. Its refusal to do so was unreasonable.

In mid-2013, Verizon requested LEC MI to establish direct trunks between its Southfield end office and Verizon's network that would be capable of handling the traffic now being routed to the distant GLC tandem. Direct trunking is a common, efficient practice that carriers use to minimize tandem transport mileage charges when traffic volumes warrant. On August 26, 2013, LEC MI responded in an e-mail message that it would not establish direct trunks that would carry toll-free traffic (which is the vast majority of the traffic) between the two networks. The stated reason for denying Verizon's request was that LEC MI "do[es] not do toll free dips on our [Southfield] end office at this time, so all our toll free traffic would head over to the tandem for completion." In other words, LEC MI claimed that because it does not perform the 8YY data base query, it could not segregate 8YY (toll free) calls destined for Verizon and route those 8YY calls over the direct trunks that Verizon had requested.

This refusal is not credible for several reasons. First, the industry's Local Exchange Routing Guide (LERG) indicates that LEC MI's Southfield office is SSP capable, meaning that the switch can perform an 8YY data base query. Second, LEC MI's intrastate and interstate tariffs include rates for "800 Data Base Access Queries."[20] Under the Act, LEC MI is required to provide service on reasonable request, consistent with the terms of its tariff. 47 U.S.C. §§ 201(a), 203. And third, from 2011 through June 2013, Verizon was billed the LEC MI tariffed rates for 8YY data base dips.[21] Thus, there does not appear to be any justification for LEC MI's unwillingness to perform the 8YY data base dip and route 8YY traffic to Verizon, either over direct trunks or through a closer tandem.

Because LEC MI's tariff includes rates for performing the 8YY data base dip and because it billed Verizon its 8YY dip charges for more than 18 months, its unwillingness to implement this solution is unreasonable, contrary to the express terms of its tariff, and therefore unlawful.

Defendants are Engaging in Access Stimulation, Without Following the Commission's Rules. In November 2011, the Commission adopted new rules "to address the adverse effects of access stimulation and to help ensure that interstate switched access rates remain just and reasonable, as required by section 201(b) of the Act."[22] One of the criteria used to determine whether a CLEC is engaged in access stimulation is if the CLEC "has had more than a 100 percent growth in interstate *originating and/or terminating* switched access minutes of use in a month compared to the same month in the preceding year."[23]

Shortly after the Commission adopted the *Connect America Fund* order, LEC MI began aggregating switched access traffic originated by a CMRS provider's end users around the country. By April 2012, the volume of tandem switched traffic billed by WTC to Verizon had increased significantly, to 15.4 million MOU. This was 181 percent higher than the number of tandem switched MOU that WTC had billed Verizon the previous April (less than 5.5 million MOU). This pattern repeated itself throughout the year. While each IXC experienced different fluctuations in volumes of billed traffic at different points in time, the chart below shows that one or more of the Complainants experienced more than a 100% increase in interstate switched traffic (year-over-year)

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[20] *See* GLC Tariff F.C.C. No. 20, Section 17 LECMI.2.2(B) ("The rate charged by LEC Michigan is the applicable current rate at Frontier Telephone Companies Tariff F.C.C. No. 5 Section 4.6.3-Michigan, Basic 800/877/888 Data Base Query Charge and Premium 800/877/888 Data Base Query Charge.") LEC MI's intrastate tariff includes a specific rate ($0.0090183) for "800 Data Base Access Service Queries." *See* GLC's Tariff M.P.S.C. No. 25(R), Section 17LECMI.2.2(B).

[21] After Verizon asked LEC MI to provide direct connections, WTC started billing Verizon GLC's rate for 8YY data base queries, beginning with the July 2013 invoice.

[22] *Connect America Fund, A National Broadband Plan for Our Future*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶662 (2011) ("*Connect America Fund*").

[23] 47 C.F.R. § 61.3(bbb)(1)(ii) (emphasis added).

billed by Defendants in 13 of the 15 months between January 2012 and March 2013. Thus, Defendants clearly meet one of the conditions that constitute access stimulation.

	Jan 2011- March 2013 MOU Year-over-Year Increase (%) Verizon	Jan 2011- March 2013 MOU Year-over-Year Increase (%) CenturyLink	Jan 2011- March 2013 MOU Year-over-Year Increase (%) Sprint
Jan 2011 -Jan 2012	92%	61%	138%
Feb 2011 -Feb 2012	87%	60%	139%
Mar 2011 - Mar 2012	87%	59%	113%
Apr 2011 - Apr 2012	181%	60%	84%
May 2011 -May 2012	123%	114%	201%
Jun 2011 - June 2012	50%	86%	116%
Jul 2011 – Jul 2012	101%	12%	46%
Aug 2011 – Aug 2012	134%	27%	64%
Sep 2011 – Sep 2012	57%	35%	47%
Oct 2011 – Oct 2012	80%	32%	19%
Nov 2011 – Nov 2012	105%	47%	57%
Dec 2011 – Dec 2012	194%	54%	58%
Jan 2012 – Jan 2013	93%	94%	137%
Feb 2012 – Feb 2013	149%	104%	124%
Mar 2012 – Mar 2013	178%	59%	75%

Most of the traffic involved in this dispute is aggregated 8YY traffic that appears to originate from a wireless carrier's end users located throughout the United States. The 8YY traffic is delivered to LEC MI which, in turn, routes the calls to the GLC tandem for ultimate delivery to the IXCs associated with the 8YY numbers. Thus, this case involves an originating traffic-pumping arrangement. 8YY calls have characteristics that are similar to the terminating traffic involved in other access stimulation cases, and are open to the same types of arbitrage as terminating traffic. Calls to an 800 number can originate from any domestic location, and from wireless or VoIP phones, as well as land lines. The local exchange company that originates the call must perform a database dip to ensure the call goes to the correct IXC. The IXC has no control over how the call is originated, but incurs charges for the origination and data base query required to route the call to it.

Aggregation often occurs when calls originated by a wireless or VoIP handset are sent to a central location to perform the database dip. By routing aggregated 8YY traffic through CLECs and rural LECs, companies are able to increase the volumes and amount of switched access they bill, and increase the distance they transport the traffic, thereby inflating mileage charges and maximizing the charges that are billed to IXCs. There is no identifiable network efficiency in this routing. When

carriers cooperate in implementing these arrangements, they may engage in revenue-sharing agreements in which wireless or VoIP originators receive a "kickback" from the third party aggregators.[24] While there are legitimate reasons for aggregating traffic (e.g., wireless and VoIP providers are not able to initiate the data base dip necessary to determine which carrier 8YY calls should be delivered to without going through a LEC), the ability to channel large amounts of traffic through high-cost areas and to increase the mileage make these arrangements look more like traditional access stimulation and mile pumping situations that the Commission has previously addressed, and found unlawful.

At this time, and without the benefit of discovery, it is not known whether Defendants meet the second condition for identifying access stimulation: that they have "an access revenue sharing agreement, whether express, implied, written or oral, that over the course of the agreement, would directly or indirectly result in a net payment to the other party (including affiliates) to the agreement, in which payment by the rate-of-return LEC or competitive LEC is based on the billing or collection of access charges from interexchange carriers or wireless carriers."[25]

The circumstances suggest that there is such an agreement ("express or implied"). The participants are aggregating 8YY traffic from across the country, routing it to a small CLEC end office near Detroit and then delivering it to a tandem switch across Michigan – in a manner designed to extract millions of dollars in excessive switched access charges. Presumably, the wireless carrier is being compensated in some manner by agreeing to participate in this arrangement. LEC MI is likely obtaining some benefit by participating in this mileage pumping and access stimulation arrangement with the other Defendants. Because it is providing access services between two carriers, the CMRS provider and GLC, LEC MI is not entitled to bill Complainants for end office switching, and it does not provide or charge for tandem switching. Consequently, LEC MI's charges (net of credits) for traffic from its Southfield end office are only a small portion of the overall charges that WTC bills the Complainants; the vast majority of the charges are billed on behalf of GLC. LEC MI's charges, by themselves, would not provide a strong financial incentive for LEC MI to act as an aggregator of nationwide wireless 8YY traffic and route tremendous volumes of access traffic through its local switch. Thus, while it instigated the process (aggregating nationwide traffic) that resulted in the tremendous stimulation of access traffic, it would not make sense for LEC MI to purposefully route large volumes of traffic through its switch unless it obtains some amount of compensation from its partnering LECs for its "effort." Sharing a portion of the inflated access charges resulting from the "mileage pumping" scheme would appear to be the most likely business arrangement.

A CLEC that is engaged in access stimulation may not file an interstate switched access tariff with prices above the rates "of the price cap LEC with the lowest interstate switched access rates in

[24] *See, e.g., Hypercube Telecom, LLC v. Level 3 Communications, LLC*, 2010 Cal. PUC LEXIS 189 (2009).

[25] 47 C.F.R. § 61.3(bbb)(1)(i).

the state."[26] The Commission's rules also require a CLEC engaged in access stimulation to file revised interstate switched access tariffs that comply with the foregoing pricing requirement within 45 days of commencing access stimulation.[27] None of the Defendants participating in this arrangement have complied with either of these rules. None of them have filed revised tariffs, as required by section 61.26(g)(2). In Michigan, the price cap LEC with the lowest access rates is Frontier.[28] None of the Defendants have recalibrated their access rates so that they do not exceed Frontier's rates, as required by section 61.26(g)(1). Instead, their tariff rates are greatly in excess of Frontier's rates.

The Defendants' failure to comply with the benchmark requirement violates Commission rules and policies. Indeed, Defendants' practices here are identical to those the Commission condemned in the *Connect America Fund* order: "[t]he combination of significant increases in switched access traffic with unchanged access rates results in a jump in revenues and thus inflated profits that almost uniformly make the LECs' interstate switched access rates unjust and unreasonable under section 201(b) of the Act."[29] The Commission found that access stimulation imposes undue costs on consumers, harms competition, and inefficiently diverts capital away from more productive uses.[30] To prevent these adverse effects and ensure that interstate access rates are priced at reasonable levels, the Commission adopted the rules described above. The Defendants' failure to comply with those pricing rules is unreasonable and, therefore, unlawful.

GLC's Interstate Transport Rates Are Not "Deemed Lawful." GLC's tariff transmittals were not filed on a "streamlined" basis and, thus, are not entitled to "deemed lawful" status. A review of tariff transmittals filed by GLC in the past two years for its own services indicates that GLC filed less than 7 days in advance of a rate decrease or less than 15 days (for a rate increase).[31] The tariff page that describes GLC's rates and charges for tandem switched transport and other tandem functions states: "Issued: September 25, 2003" and "Effective: October 1, 2003." On its face, the tariff page describing these rates was filed less than 7 days before the effective date. Because GLC did not follow the streamlined procedure in Section 204(a)(3) of the Act, 47 U.S.C. § 204(a)(3), with respect to its tandem-related rates, those tariff provisions "shall not be deemed lawful." *Streamlined Tariffing Order*, 12 FCC Rcd 2170, ¶ 34 (1997). "By definition," tariffs "not filed pursuant to that section [] are not [] accorded the [deemed lawful] treatment provided for in that section." *See also North County Communications v. Verizon*, 685 F. Supp. 2d 1112 (2010) (CLEC that did not file tariff within time frame required to obtain streamlined treatment "cannot avail itself

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[26] 47 C.F.R. § 61.26(g)(1). *Connect America Fund*, 26 FCC Rcd 17663, ¶679 (2011).

[27] 47 C.F.R. § 61.26(g)(2).

[28] *See* page 7 and n. 9, *supra*.

[29] *Connect America Fund*, ¶ 657.

[30] *Id.*, ¶¶ 662-666.

[31] Two of the three tariff filings made since January 2012 that included changes in the rates, terms and conditions of GLC services were filed on only one or two days' notice.

of "deemed lawful" status.") Accordingly, the Commission may set aside those rates and require GLC to refund charges that were unreasonable and unjust.

GLC's Interstate Access Tariff Does Not "Contain Clear and Explicit" Language About Its Rates, as Required by 47 C.F.R. § 61.25. The Communications Act requires carriers to file tariffs describing all services and their associated charges. 47 U.S.C. § 203(a). The Commission's implementing regulations require that "all tariff publications must contain clear and explicit explanatory statements regarding the rates and regulations." 47 C.F.R. § 61.2(a). In its *Eighth Report and Order,* the Commission made clear that "access tariffs … must clearly identify each of the services offered and the associated rates, terms, and conditions."[32] The Commission has also emphasized that a carrier may not charge for services that are not clearly described in its tariff, for tariffed rates "do not exist in isolation. They have meaning only when one knows the services to which they are attached."[33]

The Commission permits non-dominant carriers to cross-reference the rate provisions of another carrier's interstate access tariffs. However, "section 61.25 of the Rules, consistent with section 203 of the Act, requires the carrier to 'specifically identify in its tariff the rates being cross-referenced so as to leave no doubt as to the exact rates that will apply.'"[34]

GLC's interstate switched access tariff suffers from the defect identified in *All American*. Section 6-4 of the tariff states that "The rates in Section 17 of this Tariff for Switched Access Services … are referenced to the **applicable current rates** in NECA Tariff F.C.C. No. 5." This is problematic given the Commission's observation in *All American* that Section 17 of NECA Tariff F.C.C. No. 5 "contains over 300 pages of rates" and multiple rate bands. Thus, GLC's tariff language is unclear, ambiguous and open to multiple interpretations.

Billing vs. Recorded Usage (CenturyLink Claim). WTC is billing a significantly greater volume of MOUs to CenturyLink than has been recorded by CenturyLink's switches. In January 2014, CenturyLink requested call detail records (CDRs) that support the November 2013 WTC

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[32] *Access Charge Reform: Reform of Access Charges Imposed by Competitive Local Exchange Carriers,* Eighth Report and Order and Fifth Order on Reconsideration, 19 FCC Rcd 9108, ¶18 (2004).

[33] *Id*., ¶ 14 & n. 51 (quoting *AT&T v. Central Office Telephone*, 524 U.S. 214, 223 (1998)).

[34] *All American Telephone Co., Tariff F.C.C. No. 3*, Order, 25 FCC Rcd 5661, ¶ 3 (2010). In *All American*, the Commission found deficient the following tariff language: "rates for recurring services are **set at or below the rates** for equivalent services tariffed by the following Incumbent Local Exchange Carriers." (Emphasis added). *See also Southwestern Bell v FCC*, 43 F.3d 1515 (D.C. Cir. 1995); *Northern Valley Communications, LLC Revision to FCC Tariff No. 3,* Order, Pricing Policy Division DA 11-1132, WCB/Pricing File No. 11-07 (June 28, 2011); *In re Olympia Holding Corp.*, 88 F.3d 952, 961 (11th Cir. 1996) (a tariff is "invalid[] … where there is an absence of a calculable rate").

invoice in order to allow CenturyLink to perform further analysis on the discrepancy. CenturyLink is concerned that it is been overbilled for interstate charges.

RELIEF REQUESTED

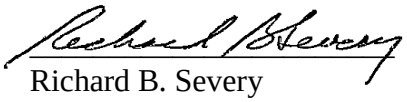
As explained above, Defendants' routing arrangements, billing practices and charges violate sections 201 and 203 of the Act, Commission rules and policies. Accordingly, the Commission should find that the Defendants' switched access charges are unreasonable and unlawful.

Complainants respectfully request that the Commission order Defendants to revise their bills to each Complainant. Defendants should be required to rerate all tandem switched transport traffic (1) using a reasonable distance of seven miles (the distance between LEC MI's end office and the nearby AT&T Michigan tandem). Defendants should also be required to rerate all switched access charges to comply with the benchmark rates set forth in section 61.26 of the Commission's rules. Because Defendants are engaged in access stimulation, the appropriate rates to apply are the switched access rates of Frontier, which is the price cap LEC with the lowest switched access rates in the state. In no event should Defendants be permitted to charge rates higher than those of AT&T (the competing ILEC) for tandem transit traffic.

Complainants request that the Commission order Defendants to issue credits to each of the Complainants equal to the amounts Defendants have unlawfully billed them, and refund to each of the Complainants all unlawful charges that the Complainants have paid to Defendants. The actual amounts owed to each Complainant will be determined through the complaint process. The Commission should also order Defendants to waive all "late payment charges," because they should not have been imposed on improperly issued invoices and unlawful charges.

Complainants also request that the Enforcement Bureau mediate the foregoing disputes.

Sincerely,



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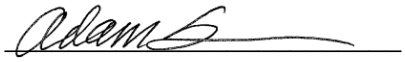

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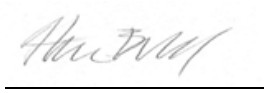

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Exhibit 5

Letter of J. Bowser, Counsel to LEC-MI, to A.J. DeLaurentis, FCC (May 12, 2014)
("LEC-MI Inf. Compl. Resp.")

May 12, 2014

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Re: Local Exchange Carriers of Michigan, Inc.'s Response to AT&T's Informal Complaint, File No. EB-14-MDIC-0003

Dear Mr. DeLaurentis:

123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, Inc. ("LEC MI"), pursuant to 47 C.F.R. § 1.717 and by the undersigned counsel, hereby responds to your Official Notice of Informal Complaint, dated April 11, 2014, and the Informal Complaint, dated April 4, 2014, that was filed by AT&T Services Inc. ("AT&T").

As described more fully below, LEC MI respectfully informs the Commission that it has satisfied, in part, AT&T's Informal Complaint by directing Respondents Great Lakes Comnet, Inc. ("GLC") and Westphalia Telephone Company ("WTC") to credit AT&T's account for any outstanding end office switching charges related to the disputed toll-free traffic that have not yet been paid by AT&T. Even though LEC MI intends to satisfy AT&T's remaining concerns about amounts related to end office switching that were erroneously billed,[1] LEC MI is unable to do so because it does not have the data necessary to calculate the amount of funds, if any, it has received from AT&T related to those charges (as compared to the amounts that GLC or WTC may have collected and retained); for its part, LEC MI is unable to identify which particular charges on WTC's bills to AT&T, which included charges on behalf of various LECs, were paid by AT&T, and thereafter, whether such funds were remitted by WTC or GLC to LEC MI.

With regard to other issues raised by AT&T, it is not within LEC MI's ability to resolve all of the issues insofar as they complain of actions taken by one or both of the other Respondents, but LEC MI is committed to working cooperatively with all interested parties in bringing this matter to a satisfactory resolution. LEC MI is amenable to participating in a staff-

[1] Provided that those claims fall within the applicable statute of limitations. *See* 47 U.S.C. § 415.

supervised mediation, which it believes should be conducted jointly with other IXCs – Verizon, CenturyLink, and Sprint – that recently filed informal complaints regarding the same, or substantially similar, issues.

I. BACKGROUND

A. LEC MI

LEC MI is a competitive local exchange carrier ("CLEC") that has been successfully providing telecommunications services in Michigan for over 15 years. The company is headquartered in the heart of Southfield, Michigan, strategically located at the head-end of most primary tier-one transit carriers. It focuses on providing premium transport, Internet, collocation, and other telecommunications and information services to state and county governments, municipalities, ISPs, Managed Service Providers, CLECs, and other technology-based companies. The company's three Metro SONET rings and long-haul optical fiber network span 1,650 route miles to over 50 nodes throughout Michigan. LEC MI also owns and operates a substantial high-speed fixed wireless network around Michigan, and four data center facilities. LEC MI prides itself on offering competitive prices and exceptional customer service.

LEC MI is an important part of the Michigan telecommunications market. It services approximately 1,000 wholesale and retail customers, including many businesses, hospitals, schools and other important Michigan industry participants, and employs staff in both Southfield and Byron Center, Michigan.

B. LEC MI HAS USED GLC'S TANDEM SWITCH AND RELIED ON GLC AND WTC FOR TARIFFING, BILLING, AND COLLECTION SERVICES FOR OVER A DECADE

LEC MI and GLC entered into a Network Operating Agreement in 2003 (the "Operating Agreement"). According to the Operating Agreement, LEC MI and GLC agreed to a meet-point billing arrangement under which GLC had billing responsibility for LEC MI's interexchange traffic, which has been reflected in the parties' FCC tariff since 2003. Upon information and belief, GLC assigned the billing responsibilities to WTC, which LEC MI understands to be an affiliate of GLC.

LEC MI formed its relationship with GLC because GLC offered LEC MI the opportunity to solve with a single provider numerous challenges that LEC MI was facing. First, GLC's tandem could solve interLATA routing difficulties that LEC MI had been experiencing while attempting to use an ILEC tandem. Unlike that ILEC tandem, GLC's tandem service had been functioning well. This was extremely valuable for a small CLEC like LEC MI, because LEC

MI, and other small carriers in Michigan, had experienced routing and carrier call completion problems when they tried to use the ILEC's tandem services.[2]

GLC also offered a comprehensive solution that included not just tandem switching, but also tariff preparation and filing, and complete switched access billing services. Other offerings in Michigan that LEC MI examined, on the other hand, were piecemeal (e.g., a provider would provide tandem services only, or download CABS records only, or prepare bills only), each of which presented a less effective and efficient option for LEC MI. Utilizing a one-stop solution, which included having GLC handle the access billing and collection with the IXCs, allowed LEC MI to focus its attention on deploying more modern services and providing service to its customers. Indeed, when LEC MI was trying to address these various issues in 2003, GLC was already handling these same activities for many RLECs in the state, and had a solid reputation for being able to work cooperatively with the IXCs to gain timely payment of access charges.

Since LEC MI and GLC entered into their relationship in 2003, GLC provided primary tandem services for LEC MI's end users' access traffic.[3] For the following decade, GLC (or WTC) billed the applicable IXCs for LEC MI's access charges and remitted payments to LEC MI (although LEC MI has not received its access charges since January 2013, which it understands the IXCs to be withholding). During the relevant time period, in addition to calculating and submitting LEC MI's access billings to IXCs, GLC and/or WTC have drafted and filed numerous tariff amendments, including amendments relating to LEC MI's tariffed access charges.

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[2] Specifically, LEC MI was using a Plexus 9000 switch (now also known as a Lucent CS 5010 compact switch). The Plexus 9000 switch had serious software limitations that caused LEC MI to be unable to route its end users' toll-free calls to the proper LATA's ILEC tandem trunk group. It is LEC MI's understanding that this was a known problem in many of the switching platforms at the time, and that GLC was aware of – and solving – the problem because it was providing tandem services for many RLECs in many LATAs in Michigan. LEC MI understands that GLC utilized a different switch, the Siemens EWSD, which had software fixes that allowed the GLC tandem to issue toll-free database queries properly and allowed it to handle IXCs' multi-LATA traffic. At the time, the other solution offered by vendors to LEC MI was to purchase and install one switch per LATA, which represented a prohibitively expensive endeavor.

[3] To the extent that GLC facilities are overloaded or inoperable, LEC MI also maintains a secondary connection with AT&T Michigan to provide backup tandem services.

C. GLC'S REQUEST TO LEASE LEC MI FACILITIES FOR TOLL-FREE ORIGINATING TRAFFIC

In approximately January 2010, GLC contacted LEC MI to inquire about leasing local switching ports from it. GLC explained that it had a new customer relationship but was having certain technical difficulties in the traffic-format translations that made it difficult for GLC to switch that traffic properly. GLC asked LEC MI to lease local switching ports to it, which would address the technical issues that GLC was experiencing because LEC MI's VoIP switch was capable of resolving the format-translations required for GLC to route the traffic properly. LEC MI understood that this would be a temporary arrangement until such time as GLC was able to address the technical issues itself. LEC MI had no discussions with GLC's customer(s) and does not know the source of the traffic at issue, but understands that it is wireless-originated 8YY traffic that has been aggregated from various wireless carriers.

LEC MI agreed to lease the local switching ports to GLC and provide the associated services to enable GLC to provide service to the relevant customer(s). The parties did not enter into a written agreement for that particular traffic, but GLC agreed to pay for the leased capacity that it would utilize.[4] For this new traffic for which GLC requested LEC MI's services, a separate trunk group was also established (Trunk Group 331); LEC MI's customers' access traffic continued to be routed over the long-standing trunk group for that traffic (Trunk Group 313). The traffic on Trunk Group 331 passed through LEC MI's VoIP switch, before being passed on to GLC.

II. LEC MI'S INVESTIGATION IS ON-GOING

Since LEC MI first learned that IXCs, such as AT&T, were disputing invoices and withholding payment, LEC MI has sought to understand the nature of the concerns and to obtain copies of invoices, dispute-related correspondence, and other information bearing on the disputes. Those efforts have not been entirely successful. LEC MI recently received from GLC thousands of pages of records, but those records do not provide a complete picture as many are redacted. LEC MI is unable to connect partial payments by IXCs to particular charges on WTC's invoices. Accordingly, LEC MI is unable to fully address all of the factual issues raised in the Informal Complaint, as AT&T and the other Respondents each have direct knowledge of the remaining issues. Thus, any issues not directly admitted should be taken as being denied by LEC MI for purposes of this response.

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[4] In addition to their 2003 Operating Agreement, GLC and LEC MI contemporaneously entered into a confidential Service Agreement under which LEC MI provided for network access facilities at LEC MI's Southfield exchange.

III. LEC MI HAS DIRECTED WTC AND GLC TO CREDIT AT&T FOR THE END OFFICE CHARGES IMPROPERLY BILLED BY WTC

AT&T's Informal Complaint asserts that it has been improperly billed end office charges on 8YY originated traffic. AT&T asserts that these charges are improper because the traffic did not originate from a LEC MI end user and that LEC MI is discriminating because it provided another carrier a refund of these charges, without providing a comparable refund to AT&T.

LEC MI agrees with AT&T that the traffic in dispute did not originate from LEC MI's end users and, because GLC and WTC have now acknowledged that it is wireless-originated traffic, end office charges should not have been assessed on the traffic. *See Eighth Report and Order*, 19 FCC Rcd. 9108, ¶¶ 15-21. WTC has represented to LEC MI that it assessed end office charges for local switching and common trunk port in connection with the 8YY traffic on the February 2012 through February 2014 CABS invoices issued to AT&T. WTC has also represented that the charges were assessed using LEC MI's rates and LEC MI's OCN of 2550. LEC MI has also learned that WTC has issued another carrier, Verizon, a credit for these same charges, but has not done so for AT&T.

It was never LEC MI's intent to discriminate against AT&T (or any other carrier). The actions that led to these charges being assessed on AT&T were taken by WTC and/or GLC. Nevertheless, because WTC has also decided to issue credits to Verizon for these charges, it is clear that credits should be issued to AT&T. Thus, LEC MI is coordinating with WTC so that WTC can credit to AT&T the end-office charges it billed under LEC MI's OCN in connection with the 8YY traffic, insofar as AT&T has not yet paid those charges. In this way, AT&T will no longer be asked to pay these charges, or any associated late fees. Since AT&T has apparently withheld payment for quite some time, including the charges associated with LEC MI's seemingly undisputed Trunk Group 313 traffic, *see* Informal Complaint at 5, LEC MI anticipates that this will address a significant part of AT&T's dispute with LEC MI.

Insofar as AT&T has previously paid a portion of the local switching and common trunk port charges related to this traffic, however, LEC MI is not able to resolve that portion of the dispute at this time. Specifically, LEC MI does not possess enough information to ascertain what amounts, if any, were paid by AT&T within the period covered by the statute of limitations. Nor can LEC MI determine with the information currently available to it what portion of those funds were retained by GLC and WTC (and therefore should be refunded by those Respondents) and what portion of the funds, if any, was remitted to LEC MI. LEC MI has, therefore, requested that GLC and WTC prepare a full analysis of AT&T's payments and provide the details of how those funds were accounted for by GLC and WTC. Insofar as AT&T is entitled to a refund, and LEC MI has received a portion of the funds, LEC MI is willing to return those

funds over to AT&T, without prejudice to its rights to seek contribution and/or indemnity from GLC and WTC.

IV. AT&T's OTHER ARGUMENTS LACK MERIT

A. The Available Evidence Shows *Alpine* Is Inapposite

Turning then to AT&T's other arguments, AT&T alleges that this case is similar to the Commission's decision in *AT&T v. Alpine Communications, LLC*, 27 FCC Rcd. 11511 (2012), *recon. denied*, 27 FCC Rcd. 16606 (2012). LEC MI respectfully submits that AT&T is mistaken.

The *Alpine* case relates to efforts by certain Iowa LECs to bill AT&T for transport services, on a mileage-sensitive basis, which would otherwise have been provided to AT&T without additional cost by the applicable centralized equal access provider in Iowa, Iowa Network Services ("INS"). Under the INS tariff, "IXCs [ ] pay INS a flat, non-distance-sensitive charge for every minute of traffic transported on the INS fiber ring to the sixteen POIs throughout Iowa." 27 FCC Rcd. at 11514, ¶ 9. In order to bypass the fact that INS's tariff did not impose distant-sensitive charges, "between 2001 and 2005, each of the Iowa LECs changed its POI with INS from the original location [in close physical proximity to their operating territories] to Des Moines where the INS access tandem is located." *Id.* ¶ 11. As a result, AT&T was charged both INS's tariffed rates, which were not distance-sensitive and thus did not change when the POI was relocated, as well as the LEC's increased distance-sensitive charges, thereby causing the IXCs to be essentially double-billed for transport services.

The *Alpine* decision is distinguishable in every material respect. In Michigan, there is no centralized equal access service provider; CLECs and other small carriers throughout the state regularly negotiate and structure relationships for tandem services independently, as LEC MI did here over a decade ago. Moreover, there is no evidence in the Informal Complaint that other tandem service providers in Michigan structure their tandem transport services on a "non-distant-sensitive" basis. Thus, the facts alleged by AT&T simply do not reveal any potential for double billing to occur. Perhaps most importantly, the point of interconnection, and LEC MI's use of GLC's tandem switch, has not changed since 2003, and arose because of legitimate network reliability and service needs.

As noted above, LEC MI opted to utilize GLC's tandem switch due to the poor service it was receiving from the large ILECs with which it initially attempted to interconnect, the technical limitations of its own switch, and to avoid the excessive costs that would have resulted had it needed to install additional switches in numerous LATAs across the state to handle its customers' traffic reliably. Thus, far from changing its POI in order to inflate mileage charges,

the network architecture and the relationship with GLC was utilized by LEC MI because of these technical limitations.

GLC has also noted that it was created to provide competitive tandem services and network capabilities in response to concerns among many smaller LECs in Michigan. The creation of GLC, as a competitor to the incumbent tandem providers, gave these LECS the opportunity to influence the quality and reliability of access services, obtain the timely deployment of new network technology, augment network facilities, and obtain better network intelligence and reporting, among other benefits. The GLC network also allowed the participating LECs to obtain Feature Group D access, while the incumbents were apparently only offering Feature Group C access services. Thus, far from being used to inflate access charges, GLC has long served an important role in making telecommunications in Michigan better, more accessible, and more affordable for consumers, residents, and IXCs for many years.

AT&T perhaps labors under the false impression that *Alpine* requires a CLEC to deliver traffic to each IXC in the most direct and cost-effective manner. Informal Compl., at 14-15 (noting that AT&T Michigan and Frontier operate tandems that are closer to Southfield than the GLC tandem in Westphalia). But *Alpine* imposes no such requirement. The decision simply does not speak to the issue of whether a CLEC must utilize the absolute lowest-cost tandem provider in the state for each particular IXC, regardless of what impact doing so would have on its overall business efficiency. Indeed, *Alpine* was not about which tandem service provider to use at all, but rather whether it was appropriate for the tandem service provider to implicitly collect for transport, while the LEC was explicitly charging for that very same service. *Alpine* is inapposite.

In short, this case is distinguishable from *Alpine* because AT&T has never been double-billed for tandem transport services; rather, those charges have only been assessed by a single carrier, GLC. Moreover, legitimate network-reliability and customer-service needs drove LEC MI's choice of GLC as a tandem provider over a decade ago, leading to a routing arrangement that the IXCs did not contest for many years. Indeed, AT&T should be estopped from complaining about LEC MI's use of the GLC tandem because it received and paid for access services under that routing pattern for over a decade. It has been reasonable and beneficial for LEC MI to route its access traffic through the GLC tandem because it addressed serious technical limitations confronted by LEC MI.

B. LEC MI is Not Engaged In Access Stimulation

The Informal Complaint also alleges that LEC MI has engaged in access stimulation without complying with the FCC's rules. LEC MI has not been involved in creating an access stimulation arrangement and that it has no contractual arrangement whatsoever – and thus no

revenue sharing agreement – in place with GLC's customer(s) whose toll-free traffic is at issue here. LEC MI did not aggregate the traffic; it merely carried it as requested by GLC. It is GLC's and its customers' traffic, and GLC leased switching facilities from LEC MI for the proper carriage of such traffic (for which GLC owes LEC MI regardless of the outcome of this dispute). Thus, insofar as the Commission's access stimulation rules are applicable to this case, they are inapplicable to LEC MI.

V. REMAINING ALLEGATIONS

The remaining allegations and claims in the Informal Complaint appear to be directed to GLC and/or WTC. Accordingly, no response is required from LEC MI.

VI. CONCLUSION

LEC MI takes seriously the allegations in the Informal Complaint. It is continuing to investigate those allegations and is committed to finding a reasonable solution if the allegations are supported by the facts and the law, while maintaining that it should be paid the appropriate rates for the work it has performed (including the access services it provides to AT&T in connection with its own customers' traffic that traverses Trunk Group 313, payments that it understands AT&T to have improperly withheld). Accordingly, LEC MI looks forward to working cooperatively with all parties and the Commission staff, and participating in mediation, as necessary, to quickly and efficiently resolve this dispute.

LEC MI expressly reserves all of its rights, at law or in equity. For the avoidance of doubt, LEC MI's response to AT&T's Informal Complaint is not intended to be, and should not be construed as, a complaint, formal or informal, against any party. LEC MI is not electing to pursue claims against any party before the Commission at this time, and expressly reserves all of its rights. *See* 47 U.S.C. § 207.

Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

Joseph P. Bowser
Counsel to 123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, Inc.

cc: Reese Serra, Esq.

CERTIFICATE OF SERVICE

I, Joseph P. Bowser, hereby certify that on this the 12th day of May 2014, a copy of the foregoing **Local Exchange Carriers of Michigan's Response to AT&T's Informal Complaint** was served on the following counsel of record by First Class Mail and Email:

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Joseph P. Bowser

Exhibit 6

Settlement Agreement, dated January 4, 2017, among AT&T, GLC and Westphalia

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement"), made as of January 4, 2017, is entered into by and among (i) AT&T Corp., on behalf of itself and its affiliates (collectively, "AT&T"), (ii) Great Lakes Comnet, Inc. ("GLC"), (iii) Comlink, LLC ("Comlink"), (iv) Westphalia Telephone Company ("WTC"), and (v) Westphalia Broadband, Inc. ("WBI"). GLC and Comlink may be referred to herein collectively as the "Debtors." AT&T, the Debtors, WTC and WBI are collectively referred to herein as the "Parties."

The Pending Regulatory, Related Proceedings and Other Disputes

(a) The MPSC Proceeding – Intrastate Charges

WHEREAS, on May 13, 2014, GLC and WTC commenced a proceeding (Case No. U-17619) against AT&T in the Michigan Public Service Commission (the "MPSC") with respect to unpaid charges allegedly incurred by AT&T for intrastate telephone services (the "MPSC Proceeding");

WHEREAS, GLC and WTC asserted in the MPSC Proceeding that AT&T owed approximately $4.4 million in withheld and unpaid charges in relation to intrastate telephone traffic;

WHEREAS, AT&T asserted in the MPSC Proceeding that GLC and WTC owe AT&T approximately $4.2 million on account of overcharges/refunds owed to AT&T in relation to intrastate telephone traffic;

WHEREAS, the administrative law judge (the "ALJ") issued a Proposal for Decision on December 11, 2014, rejecting GLC's and WTC's claims for unpaid charges for intrastate telephone traffic;

WHEREAS, the MPSC subsequently rejected the ALJ's ruling and entered an order on January 27, 2015 (the "MPSC Order"), in favor of GLC and WTC;

WHEREAS, AT&T filed an appeal from the MPSC Order to the Michigan Court of Appeals on February 23, 2015 (Case No. 326100);

WHEREAS, the Michigan Court of Appeals granted a stay pending appeal by order entered March 27, 2015;

WHEREAS, oral argument on the appeal from the MPSC Order was held on August 9, 2016;

WHEREAS, on September 6, 2016, the Michigan Court of Appeals vacated the MPSC Order and remanded the case for further proceedings consistent the D.C. Circuit's order (described below);

(b) The FCC Proceeding – Interstate Charges

WHEREAS, on April 4, 2014, AT&T filed an informal complaint with the Federal Communications Commission (the "FCC") asserting that disputed charges for interstate telephone traffic imposed by GLC and WTC were unlawful;

WHEREAS, AT&T filed a formal complaint with the FCC on October 22, 2014, against GLC and WTC (EB Docket No. 14-222, File No. EB-14-MD-013) (the "FCC Proceeding" and, together with the MPSC Proceeding, the "Regulatory Proceedings");

WHEREAS, AT&T asserts that GLC and WTC owe AT&T approximately $13.6 million in overcharges/refunds for interstate telephone traffic;

WHEREAS, on or about March 18, 2015, the FCC entered an order on liability holding in favor of AT&T (the "FCC Order");

WHEREAS, on or about March 23, 2015, GLC and WTC filed an appeal from the FCC Order to the United States Court of Appeals for the D.C. Circuit (Case No. 15-1064) (the "D.C. Circuit");

WHEREAS, on May 24, 2016, the D.C. Circuit entered an order affirming the FCC Order in most respects, but remanded the matter to the FCC for further explanation regarding the FCC's ruling that GLC did not qualify for the FCC's "rural exemption;"

(c) The District Court Action

WHEREAS, on July 14, 2015, GLC and WTC commenced an action in the United States District Court for the Western District of Michigan (Case No. 15-cv-00216) seeking to recover approximately $15.9 million from AT&T on account of the disputed charges for interstate telephone traffic that would allegedly be due if the FCC Order were reversed (the "District Court Action"):

WHEREAS, AT&T moved to dismiss the District Court Action;

WHEREAS, by order entered February 1, 2016, the District Court granted AT&T's motion to dismiss the District Court Action;

WHEREAS, on March 1, 2016, GLC and WTC filed an appeal to the United States Court of Appeals for the Sixth Circuit from the District Court's order dismissing the District Court Action (Case No. 16-1256) (the "Sixth Circuit Appeal");

(d) Disputed Dedicated Entrance facility Charges

WHEREAS, AT&T asserts that GLC owes AT&T approximately $8.9 million in respect to overcharges related to dedicated entrance facilities (the "Dedicated Entrance Facility Charges") provided by GLC to AT&T;

WHEREAS, GLC asserts that AT&T owes GLC approximately $3.2 million on account of unpaid Dedicated Entrance Facility Charges;

(d) Disputed WTC's Charges

WHEREAS, WTC asserts that AT&T owes WTC approximately $388,000 on account of alleged services through August 31, 2016 (the "WTC Disputed Charges");

WHEREAS, AT&T disputes that such charges are owed to WTC;

(d) Other Unpaid Charges Asserted by AT&T

WHEREAS, AT&T asserts that the Debtors owe AT&T approximately $1.1 million on account of interconnection services and other telecommunications services provided by AT&T under various contracts and/or tariffs;

The Debtors' Chapter 11 Case

WHEREAS, on January 25, 2016, the Debtors filed petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Western District of Michigan (the "Bankruptcy Court");

WHEREAS, an Official Committee of Unsecured Creditors (the "Committee") was appointed in the Bankruptcy Case;

WHEREAS, the Debtors sold substantially all of their assets to Everstream Holding Company, LLC ("Everstream") pursuant to the Bankruptcy Court's order entered May 18, 2016;

WHEREAS, on April 1, 2016, AT&T filed on objection to, among other things, the proposed cure amounts related to the assumption and assignment of AT&T's contracts to Everstream;

WHEREAS, on or about April 12 and July 25, 2016, AT&T filed six Proofs of Claim in the Debtors' cases reflecting the pre-petition amounts allegedly owed on account of the matters referenced above. The Proofs of Claim were assigned claim numbers 50, 51, 52, 53, 116, and 119 by the Debtors' claims and noticing agent;

WHEREAS, on July 25, 2016, AT&T filed a Motion allowance of an administrative expense claim (the "Administrative Claim Motion") in the Bankruptcy Court; and

WHEREAS, the Parties desire to resolve and settle all disputes between and among them and to facilitate confirmation of a chapter 11 plan (the "Plan") for the Debtors.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged by each of the Parties, the Parties have agreed to settle any and all matters between and among them on the following terms:

1. The Recitals to this Agreement are hereby incorporated into this Agreement as substantive agreements and acknowledgements of the Parties.

2. This Agreement shall be effective upon entry of an order by the Bankruptcy Court approving this Agreement (the "Agreement Effective Date"). The Agreement shall be incorporated into and approved as part of the Plan. The Debtors and AT&T shall use commercially reasonable efforts to obtain Bankruptcy Court approval of the Agreement and the Plan. The Plan shall provide for substantive consolidation of GLC and Comlink and shall otherwise be in form and substance satisfactory to the Debtors and the Committee, and to the extent directly affecting AT&T, AT&T, and shall be consistent with this Agreement.

3. Upon the Agreement Effective Date, (a) claim number 116 filed by AT&T shall be allowed as a general unsecured non-priority claim against GLC in the amount of $15.9 million, (b) AT&T shall withdraw claim numbers 50, 51, 52, 53 and 119 with prejudice, and (c) AT&T shall withdraw its Administrative Claim Motion with prejudice.

4. Within five days of the Effective Date (as such term is defined in the Plan) of the Plan, AT&T shall tender payment in the amount of $1,000,000.00 to GLC and in the amount of $100,000.00 to WTC (collectively, the "Settlement Amount"), by certified check, certified bank funds, or bank wire.

5. Upon execution of the Agreement, the Debtors shall file the motion attached as Exhibit A (the "Cure Settlement Motion") seeking approval of the settlement with Everstream related to disputed AT&T cure claims in respect of the assumption of AT&T's contracts and shall use commercially reasonable efforts to obtain entry of an order by the Bankruptcy Court approving such motion.

6. Effective upon the Agreement Effective Date, the Debtors, WTC, and WBI, on their own behalf and on behalf of their respective estates, and past, present and future affiliates, domestic or foreign, parent corporations, subsidiaries, predecessors, successors and assigns, including any successor entity or trust created under the Plan (collectively, the "Debtor Releasor Parties"), hereby release and forever discharge AT&T and its respective past, present and future domestic and foreign affiliates, directors, officers, attorneys, financial advisors, insurers, shareholders, parent corporations, subsidiaries, predecessors, successors and assigns (collectively, the "AT&T Releasee Parties") from any and all manner of claims, counterclaims, liabilities, demands, obligations, setoffs, defenses, suits, debts, actions, causes of action, or sums of money including attorneys' fees and costs, whether known or unknown, alleged or unalleged, vested or contingent, pursuant to federal or state statute, common law, or otherwise, that the Debtor Releasor Parties might have against the AT&T Releasee Parties from the beginning of the world through the Agreement Effective Date, including but not limited to, any such claims related to the Regulatory Proceedings, the District Court Action, the Dedicated Entrance Facility Charges, the Disputed WTC Charges, and any claims under chapter 5 of the Bankruptcy Code, provided, however, that nothing herein releases any claims by AT&T and WTC on account of services provided to each other on and after September 1, 2016 or the Debtors' obligations to pay the agreed cure claim pursuant to the Cure Settlement Motion.

7. Effective upon the Agreement Effective Date, AT&T on its own behalf and on behalf of its past, present and future affiliates, domestic or foreign, parent corporations, subsidiaries, predecessors, successors and assigns (collectively, the "AT&T Releasor Parties"), hereby release and forever discharge the Debtors, WTC, and WBI, and each of their respective past, present and future domestic and foreign affiliates, directors, officers, attorneys, financial advisors, insurers, shareholders, parent corporations, subsidiaries, predecessors, successors and assigns (collectively, the "Debtor Releasee Parties") from any and all manner of claims, counterclaims, liabilities, demands, obligations, setoffs, defenses, suits, debts, actions, causes of action, or sums of money including attorneys' fees and costs, whether known or unknown, alleged or unalleged, vested or contingent, pursuant to federal or state statute, common law, or otherwise, that the AT&T Releasor Parties might have against the Debtor Releasee Parties

from the beginning of the world through the Agreement Effective Date, including but not limited to, any such claims related to the Regulatory Proceedings, the District Court Action, the Dedicated Entrance Facility Charges, and the Disputed WTC Charges, provided, however, that nothing herein releases (a) any claims by AT&T and WTC on account of services provided to each other on and after September 1, 2016, (b) the previously agreed credit granted by WTC in the currently outstanding amount of $501,738.96 in favor of AT&T, and (c) any claims by AT&T against parties other than the Debtor Releasee Parties, including, without limitation, 123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, notwithstanding GLC, WTC, WBI or any other party billing AT&T on behalf of or as agent for such parties other than the Debtor Releasee Parties.

8. In the event this Agreement does not become effective, then: (a) the terms of this Agreement shall not be binding on any of the Parties, and (b) none of the provisions of this Agreement shall be used or referred to in any subsequent litigation or proceeding or shall prejudice or impair any of the rights, remedies or defenses of any of the Parties hereto.

9. Nothing in this Agreement shall be deemed as an admission of liability by any Party.

10. Upon the Agreement Effective Date or as soon thereafter as practicable, the Parties shall jointly file written stipulations, motions and orders as may be necessary to dismiss all pending actions, including the Regulatory Proceedings and the District Court Action, including any and all pending appeals, with prejudice and with each party to bear its own costs in form and substance reasonably acceptable the Parties.

11. This Agreement shall inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns of the Parties hereto.

12. Any amendment to this Agreement must be in writing, signed by duly authorized representatives of the Parties hereto, or their respective successors and/or assigns, and state the intent of the Parties to amend this Agreement.

13. Each Party to this Agreement agrees to perform any other or further acts, and to execute and deliver any other or further documents, as may be reasonably necessary or appropriate to implement this Agreement.

14. This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any prior understandings or letters between the Parties. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express or implied, between the Parties other than those expressly set forth in this Agreement.

15. Except as may be specifically set forth in this Agreement, this Agreement is for the sole benefit of the Parties hereto, and nothing herein, express or implied, shall create or be construed to create any third party beneficiary rights hereunder.

16. Any communication or notice sent by any Party in connection with this Agreement may be effected by facsimile, email or overnight courier, directed to each one of the following:

If to AT&T:

AT&T Services, Inc.
One AT&T Way, Room 3A115
Bedminster, NJ 07921
Attn: James W. Grudus, Esq.
Tel: 908-234-3318
Fax: 832-213-0157
Email: james.grudus@att.com

-and-

Norton Rose Fulbright US LLP
1301 Avenue of the Americas
New York, NY 10019
Attn: David A. Rosenzweig
Tel: 212-318-3035
Fax: 212-318-3400
Email: david.rosenzweig@nortonrosefulbright.com

If to GLC, Comlink, WTC or WBI:

Lennon Telephone Company
P.O. Box 329
Lennon, Michigan 48449
Attn: Randy Fletcher, Chairman
Tel: 810-621-3301
Fax: 810-621-9600
E-mail: rfletcher@lentel.com

-and-

Miller Canfield
150 West Jefferson, Suite 2500
Detroit, MI 48226
Attn: Stephen S. LaPlante, Esq.
Tel: 313-496-8478
Fax: 313-496-8452
Email: laplante@millercanfield.com

17. Each Party represents that in the execution of this Agreement, and the negotiations leading thereto, it had the opportunity to consult legal counsel of its own selection.

18. If any action at law or in equity, including an action for declaratory or injunctive relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to its reasonable costs in prosecuting or defending said action, including a reasonable amount of its attorneys' fees, which may be set by the court in which the action for

enforcement is brought, or in a separate action for that purpose, in addition to any other relief to which the prevailing party may be entitled.

19. This Agreement shall be construed in accordance with and be governed by the laws of the State of New York not including its choice of law principles. The Bankruptcy Court shall retain exclusive jurisdiction to enforce this Agreement, including, but not limited to, declaratory or injunctive relief.

20. In the event that any one or more of the provisions contained in this Agreement shall, for any reason, be declared in a legal forum to be invalid, illegal, ineffective or unenforceable in any respect, such invalidity, illegality, ineffectiveness or unenforceability shall not affect any other provision of this Agreement, which Agreement shall remain in full force and effect, valid and binding upon all the Parties to this Agreement. Each of the provisions of this Agreement shall be enforceable independently of any other provision of this Agreement and independently of any other claim or cause of action. The Parties acknowledge and agree that the general releases, waivers and warranties contained herein are valid, legal and enforceable. If, however, any of the provisions contained in Paragraphs 6 and 7 of this Agreement are held in whole or in part by a court of competent jurisdiction to be invalid, illegal or unenforceable for any reason, then the Parties' obligations pursuant to this Agreement will be considered null and void ab initio unless the Parties promptly agree to execute a new valid and enforceable release.

21. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against either of the Parties.

22. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same document. Counterparts may be executed in original form or via email or facsimile form. The Parties adopt the signatures transmitted via facsimile or email as original signatures of the Parties, provided, however, that any Party providing its signature in such manner shall promptly forward to the other Party an original of the signed copy of this Agreement which was so transmitted.

23. Each of our signatures hereto shall constitute our respective consent to this Agreement, as well as our representation to the other that we have the authority to enter into this Agreement on behalf of the party or parties so reflected in the corresponding signature block.

24. The Bankruptcy Court shall retain exclusive jurisdiction, and the Parties hereby consent to such exclusive jurisdiction, to hear and determine any and all matters, claims or disputes arising from or relating to this Agreement.

[SIGNATURES ON NEXT PAGE]

AT&T Corp.

By: Kimberly McCabe
Name: Kimberly McCabe
Title: AVP

Great Lakes Comnet, Inc.

By:_____
Name:
Title:

Comlink, LLC

By:_____
Name:
Title:

Westphalia Telephone Company

By:_____
Name:
Title:

Westphalia Broadband,Inc.

By:_____
Name:
Title:

AT&T Corp.

By:_____
Name:
Title:

Great Lakes Comnet, Inc.

By: _____
Name: JOHN SUMMERSETT
Title: CEO

Comlink, LLC

By: _____
Name: JOHN SUMMERSETT
Title: GENERAL MANAGER

Westphalia Telephone Company

By:_____
Name:
Title:

Westphalia Broadband,Inc.

By:_____
Name:
Title:

AT&T Corp.

By:_____
Name:
Title:

Great Lakes Comnet, Inc.

By:_____
Name:
Title:

Comlink, LLC

By:_____
Name:
Title:

Westphalia Telephone Company

By:_____
Name: David A Fox
Title: President

Westphalia Broadband,Inc.

By:_____
Name: David A Fox
Title: President

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

In re:	**CHAPTER 11**
GREAT LAKES COMNET, INC. *et al.*	**CASE NO. 16-00290 (Jointly Administered)**
Debtors.	**Hon. John. T. Gregg**

/

JOINT MOTION FOR ORDER APPROVING TERMS OF COMPROMISE AMONG DEBTORS, EVERSTREAM GLC HOLDING COMPANY, LLC, AND AT&T CORP.

Now come debtors Great Lakes Comnet, Inc. and Comlink L.L.C. (collectively, the "Debtors") and Everstream GLC Holding Company, LLC ("Everstream" and together with the Debtors, the "Movants") to hereby jointly request (the "Joint Compromise Motion") that the Court enter an Order approving the terms of the Compromise (defined below) among the Debtors, Everstream, and AT&T Corp. and its subsidiaries and affiliates ("AT&T," and together with the Debtors and Everstream, the "Parties"). In support of this Joint Compromise Motion, the Movants respectfully state the following.

JURISDICTION AND VENUE

1. The Court has jurisdiction over the Joint Compromise Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Section 105 of title 11 (the "Bankruptcy Code") of the United States Code and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") provide the statutory bases for the relief sought herein.

BACKGROUND

2. On January 25, 2016 (the "Petition Date"), the Debtors commenced these cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

3. On January, 27, 2016, the Court entered an order directing joint administration of the Debtors' cases [Dkt. No. 50].

4. On February 1, 2016, the Debtors filed their motion for entry of an order seeking, among other things, establishment of sale procedures, scheduling of an auction and sale hearing, approval of the form of purchase and sale agreement, and related relief [Dkt. No. 72] (the "Bidding Procedures Motion").

5. On March 10, 2016, the Court entered an order establishing bidding procedures and granting related relief in connection with the proposed auction and sale of substantially all of the Debtors' assets [Dkt. No. 235] (the "Bidding Procedures Order"). Among other things, the Bidding Procedures Order established a deadline of April 22, 2016 for the submission of bids.

6. Pursuant to the Bidding Procedures Order, on March 11, 2016, the Debtors filed a schedule of cure amounts related to the assumption of executory contracts and unexpired leases [Dkt. No. 238] (the "Cure Schedule").[1]

7. Further pursuant to the Bidding Procedures Order, in the event any non-debtor counterparty filed an objection to the Cure Schedule, including with respect to a proposed cure amount, a further hearing was to be held on the cure amount and the proposed assumption and assignment.

8. Everstream's bid for the purchase of the Debtors' assets was the only bid received

[1] Everstream filed subsequent amendments to the Cure Schedule, which reflect the AT&T cure amount that the Parties have memorialized with the filing of this Joint Compromise Motion.

by the April 22, 2016 bid deadline established pursuant to the Bidding Procedures Order. Thus, on April 27, 2016, the Debtors filed their Notice of Cancellation of Auction and Designation of Winning Bidder [Dkt. No. 363], pursuant to which they identified Everstream as the winning bidder for their business assets.

9. On May 10, 2016, the Court held a hearing approving the sale of substantially all of the Debtors' assets to Everstream.

10. An Order Approving Sale of Assets Pursuant to 11 U.S.C. § 363 [Dkt. No. 405] was entered by the Court on May 18, 2016 (the "Sale Order").

11. Debtors and Everstream closed their sale transaction on June 1, 2016.

The AT&T Dispute

12. On April 1, 2016, AT&T filed an objection [Dkt. No. 308] (the "Objection") and reservation of rights to the Cure Schedule, which originally listed AT&T as possessing a cure amount of $0.00. AT&T asserted in its Objection that it possessed a claim for pre-petition and post-petition charges in the amount $1,104,727.62 (the "AT&T Cure Amount").

13. Conversely, Everstream (by way of assumption and assignment) alleges that it possesses an account receivable, which pertains to certain dedicated entrance facility charges owed by AT&T, in excess of $2,500,000 ("AT&T Receivable"). Based on the AT&T Receivable, Everstream asserts that it can set off the AT&T Cure Amount in its entirety (the "AT&T Dispute"). AT&T disputes the validity of the AT&T Receivable and contends that no such receivable is owed by AT&T. Moreover, AT&T disputes that Everstream acquired the AT&T Receivable.

14. For a period of approximately two months following AT&T's Objection, Everstream and AT&T have engaged in numerous discussions and exchanged supporting

documentation for the purposes of resolving their business dispute.

15. Based on these efforts, the Parties have reached a resolution with regard to the amounts that are due and owing.

Summary of Compromise

16. The terms of the compromise agreed to among the Parties (the "Compromise") include the following: (i) the Objection is resolved as set forth in subparagraphs (ii) – (vi) of this paragraph; (ii) the Debtors will assume and assign to Everstream all executory contracts and unexpired leases to which the Debtors and AT&T are party, except for any agreement, contract, claim (as defined in Bankruptcy Code § 101(5)), account payable or account receivable that arise out of or are related to (x) any of the following proceedings or the conduct described therein: (a) In the Matter of AT&T Services Inc. and AT&T Corp. v. Great Lakes Comnet, Inc. and Westphalia Telephone Company, in the Federal Communications Commission ("FCC"), EB Docket No. 14-222, File No. EB-14-MD-013, (b) In the matter of the application and complaint of Westphalia Telephone Company and Great Lakes Comnet, Inc. against AT&T Corp. before the Michigan Public Service Commission, Case No. U-17619, now on appeal in the Michigan Court of Appeals (Case No. 326100), and (c) Great Lakes Comnet, Inc. and Westphalia Telephone Company, v. AT&T Corp. in the United States District Court for the Western District of Michigan (Case No. 1:15-CV-216), and the appeal in the United States Court of Appeals for the Sixth Circuit (Case No. 16-1256); and (y) the AT&T Receivable or charges and amounts invoiced or billed by the Debtors or their affiliates to AT&T under tariffs (collectively, the "Assumed and Assigned Agreements"); (iii) Debtors will utilize a portion of the sale proceeds received from Everstream as part of the sale transaction for the purposes of making payment to AT&T in the amount of $740,000 within ten (10) days of the approval of this Joint Compromise

Motion in full and final satisfaction of the alleged AT&T Cure Amount; (iv) Everstream waives and releases its interests, if any, in the alleged AT&T Receivable and will take no action to seek to collect the alleged AT&T Receivable; (v) Everstream and AT&T will both agree to operate in good faith for the purposes of negotiating reasonable dedicated entrance facility charges, which will allow AT&T to gain access to certain network traffic, and the language set forth in this Joint Compromise Motion shall not affect Everstream's rights in any manner whatsoever to negotiate and subsequently collect dedicated entrance facility charges from AT&T on a going forward basis; and (vi) except for any claims (as such term is defined in Bankruptcy Code § 101(5)) arising from or related to the Assumed and Assigned Agreements, AT&T shall be entitled to assert any pre-petition or administrative claims in the Debtors' bankruptcy, without prejudice to the right of the Debtors to object to such claims. For the avoidance of doubt, nothing described in this paragraph 16 shall affect, in any manner whatsoever, any right Everstream may have to ~~'s ability to~~ recover the requested relief set forth in the adversary action that Everstream initiated against Debtors and is currently pending in this Court (*Everstream GLC Holding Co., LLC v. Great Lakes Comnet, Inc. and Comlink L.L.C.*, Adv. Pro. No. 16-80246) or any claims or defenses the Debtors may have in that action ~~to such requested relief~~.

17. The terms of the Compromise are conditioned upon—and will become effective upon the approval of this Joint Compromise Motion.

RELIEF REQUESTED AND THE REASONS THEREFOR

18. By this Joint Compromise Motion, the Movants request the Court to approve the Compromise.

19. Bankruptcy Code Section 105(a) provides that the Court may issue "any order, process, or judgment that is necessary or appropriate" to carry out the provisions of the

Bankruptcy Code. 11 U.S.C. § 105(a). Bankruptcy Rule 9019(a) provides, "On motion...after notice and a hearing, the court may approve a compromise or settlement." Fed. R. Bankr. P. 9019(a).

20. Compromises are favored in bankruptcy cases. *In re Leeway Holding Co.*, 120 B.R. 881, 891 (Bankr. S.D. Ohio 1990). *See also Magill v. Springfield Marine Bank (In re Heissinger Resources Ltd.)*, 67 B.R. 378, 383 (C.D. Ill. 1986) (the law favors compromise). The decision to approve a settlement or compromise lies within the discretion of the Court and is warranted where the settlement is found to be reasonable and fair in light of the particular circumstances of the case. *Protective Comm. v. Anderson* (*In re TMT Trailer*), 390 U.S. 414, 424-25 (1968).[5] In reviewing a settlement, the Court is to determine whether, as a whole, the settlement is fair and reasonable. *Leeway Holding Co.*, 120 B.R. at 890.

21. In determining whether a settlement is reasonable, a court should consider the following factors:

a. The probability of success;

b. The difficulty in collecting any judgment that may be obtained;

c. The complexities involved and the expense, inconvenience, and any delay attendant thereto; and

d. The interests of creditors and equity holders.

See, among others, *In re Martin*, 91 F.3d 389, 393 (3d Cir. 1996).[6]

22. A bankruptcy court should approve a proposed settlement after an independent

[5] *See also International Distrib. Centers, Inc. v. Talcott, Inc.*, 103 B.R. 420, 422 (S.D.N.Y. 1989); and *In re Texaco*, 84 B.R. 893, 901 (Bankr. S.D.N.Y. 1988).

[6] *See also In re Drexel Burnham Lambert Group, Inc.*, 960 F.2d 285, 292 (2d Cir. 1992); *TMT Trailer*, 390 U.S. at 424-25; *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986); *In re Swallen's, Inc.*, 210 B.R. 128 (Bankr. S.D. Ohio 1997); *In re McLean Indus., Inc.*, 84 B.R. 340, 344 (Bankr. S.D.N.Y. 1988); and *In re Carla Leather, Inc.*, 44 B.R. 457, 466 (Bankr. S.D.N.Y. 1985).

review and evaluation of the applicable principles of bankruptcy law unless it "fall[s] below the lowest point in the range of reasonableness." *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir. 1983) (quoting *Newman v. Stein*, 464 F.2d. 689, 693 (2d Cir. 1972)).[7] While bankruptcy courts should independently examine proposed settlements, a court's evaluation of a proposed settlement is not a mini-trial on the merits of the claims involved. *See, e.g., In re Walsh Constr., Inc.*, 669 F.2d 1325, 1328 (9th Cir. 1982); *Garfinkle v. Levin*, 460 F. Supp. 670, 672 (S.D.N.Y. 1978).

23. Under *TMT Trailer*, courts balance the probable benefits and potential costs of pursuing a claim or defense against the costs of the proposed settlement. Accordingly, courts generally give considerable deference to a trustee or debtor's recommendation of a proposed compromise and settlement. *See Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 604 (5th Cir. 1980) (affirming district court's reliance on trustee's evaluation of merits of claim); and *Port O'Call Investment Co. v. Blair, (In re Blair)*, 538 F.2d 849, 851 (9th Cir. 1976). The Court also should give weight to a trustee's informed judgment that a compromise is fair and equitable to the estate. *See International Distrib. Centers, Inc.*, 103 B.R. at 423; *Carla Leather, Inc.*, 44 B.R. at 465; and *Heissinger Resources Ltd.*, 67 B.R. at 383 (weight given to opinions of trustee, the parties, and their attorneys). A settlement need not be the best result that could have been achieved; rather, it need only fall "within the reasonable range of litigation possibilities." *In re Telesphere Comm., Inc.*, 179 B.R. 544, 553 (Bankr. N.D. Ill. 1994) (collecting authorities).

24. For the reasons discussed next, the Movants respectfully submit that the Compromise is fair and equitable, that it falls comfortably within the range of reasonableness,

[7] *See also In re Tennol Energy Co.*, 127 B.R. 820 (Bankr. E.D. Tenn. 1991); *In re Energy Cooperative, Inc.*, 886 F.2d 921 (7th Cir. 1989); and *In re Dow Corning Corp.*, 198 B.R. 214 (Bankr. E.D. Mich. 1996).

and that it therefore should be approved under Bankruptcy Rule 9019.

The Compromise Meets the "Fair and Reasonable" Standard

25. The Compromise provides the following benefits: (i) immediate resolution of the AT&T Dispute, including certainty and finality with respect to the sale of the Debtors' assets to Everstream; (ii) elimination of any and all additional litigation expenses, including any need to mediate or try the AT&T Dispute, including associated discovery, briefing, etc.; and (iii) removal of all risk, delay, and uncertainty associated with litigating the AT&T Dispute to judgment.

26. With respect to the factors utilized to evaluate settlements, the Movants submit that they weigh decisively in favor of approval of the Compromise. First, with regard to probability of success, the Movants believe they would have ultimately prevailed, at least in part, with respect to the AT&T Dispute; however, complete success was far from certain. The Movants are also mindful that it is difficult to predict or calculate the probability of success in any litigation.

27. As for the third factor (complexities and attendant expense, inconvenience and delay), continued litigation of the AT&T Dispute would have been fact-intensive and time-consuming and costly to the Parties, including the Debtors' estates, and without the Parties' obtaining this resolution, the closing of the sale transaction would have been further delayed, and may not have closed on June 1, 2016. With the Compromise, such costs and delay were eliminated, the asset sale was consummated, and the Debtors may proceed to finalize administration of their estates.

28. Finally, on the fourth factor, the Movants submit that the creditors' interests are well served by the Compromise, which will result in the resolution and certainty set forth above

and a corresponding benefit to the chapter 11 estate.

29. Based upon the claims, the legal theories and defenses available to the Parties, and the significant costs and uncertainty associated with litigating the AT&T Dispute to judgment, the Compromise is fair and reasonable. The Movants submit that it falls well "within the reasonable range of litigation possibilities" and should be approved.

RESERVATION OF RIGHTS

30. The Movants reserve the right to amend, supplement, or otherwise modify this Joint Compromise Motion as necessary or proper. Nothing contained herein is or shall be deemed to be an admission or allegation by any of the Parties with regard to the claims or defenses associated with the AT&T Dispute.

CONCLUSION

31. The Movants submit that approval of the Compromise is fair and appropriate and in the best interest of the Debtors' estates. The terms of the Compromise were fully negotiated by the Parties, and they represent the agreed upon resolution of the Parties with regard to the AT&T Dispute and all issues raised therein.

WHEREFORE, the Movants respectfully requests that the Court enter an order in substantially the same form as the one attached as Exhibit 1.

Dated: October 27, 2016~~October 21, 2016~~

THOMPSON HINE LLP

/s/ Scott B. Lepene
Scott B. Lepene (Ohio Bar #0076763)
3900 Key Center
127 Public Square
Cleveland, OH 44114-1291)
(216) 566-5692 (Direct)
(216) 566-5800 (Facsimile)
scott.lepene@thompsonhine.com

Counsel for Everstream GLC Holding, LLC

RAYMAN & KNIGHT

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141 E. Michigan Ave., Ste. 301
Kalamazoo, MI 49007
(269) 345-5156

Co-counsel for Everstream GLC Holding, LLC

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: /s/ Marc N. Swanson

Jonathan S. Green (P33140)
Stephen S. LaPlante (P48063)
Marc N. Swanson (P71149)
Attorneys for the Debtors
150 West Jefferson, Suite 2500
Detroit, MI 48226
(313) 963-6420
laplante@millercanfield.com

Counsel to the Debtors and Debtors in Possession

CERTIFICATE OF SERVICE

I, Marc N. Swanson, hereby certify that on October 27, 2016~~October 21, 2016~~, I electronically filed the foregoing *Joint Motion for Order Approving Terms of Compromise* with the Clerk of the Bankruptcy Court using the ECF system which will send notification of such filing to all ECF participants.

/s/ Marc N. Swanson
Marc N. Swanson

12025765.2

Exhibit 7

GLC Tariff Revisions

TELECOMMUNICATIONS
ASSOCIATION OF MICHIGAN

February 19, 2013

Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Attn: Wireline Competition Bureau

The accompanying tariff material, issued on behalf of Great Lakes Comnet, Inc. and other Issuing Carriers bearing Tariff F.C.C. No. 20, Access Service, is being filed under the Electronic Tariff Filing Service (ETFS) in compliance with the Communications Act of 1934, as amended.

The filing, to become effective March 6, 2013, consisting of tariff pages as indicated in the following check sheets:

Tariff F.C.C. No. 20	9th Revised Page 1
	4th Revised Page 1.3
	1st Revised Page 17LECMI-10.3
	1st Revised Page 17LECMI-11

This filing modifies Section 17 (Rates and Charges) for issuing carrier Local Exchange Carrier of Michigan, Inc. (LECMI) (OCN 2550). The specific changes are to certain local transport rate elements and to local switching. Certain of the changes reflect the tariffing of additional rate elements for host/remote transport.

The Company's FCC Registration Number is 0003-7262-70.

Please direct any inquiries concerning these tariff revisions to the undersigned.

Sincerely,

Michael A. Holmes
General Counsel
Telecommunications Association of Michigan

600 W. Shiawassee St. • Lansing, MI 48933 • Ph 517-482-4166 Fax 517-482-3548 • www.telecommich.org

ACCESS SERVICE

CHECK SHEET

Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated
Title 1	1st	1-1	Original	2-40	Original
Title 2	6th	2-1	Original	2-41	Original
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1.1	4th	2-3	Original	2.43	Original
1.2	2nd	2-4	Original	2-44	Original
1.2.1	Original	2-5	Original	2-45	Original
1.3*	3rd	2-6	Original	2.46	Original
1.4	1st	2-7	Original	2-47	Original
1.5	3rd	2-8	Original	2-48	Original
2	2nd	2-9	Original	2-49	Original
3	Original	2-10	Original	2-50	Original
4	Original (Z)	2-11	Original	2-51	Original
	(Z)	2-12	Original	2-52	Original
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5	Original	2-18	Original	2-58	Original
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45	Original	2-37	Original	2-75	1st
46	Original	2-38	Original	2-75.1	Original
47	Original	2-39	Original		
48	Original				
49	Original				

*New or revised page

Transmittal
No. 4

Issued: February 19, 2013

Effective: March 6, 2013

John Summersett - Chief Operating Officer
Great Lakes Comnet, Inc.
1515 Turf Lane
Suite 100
East Lansing, MI 48823

ACCESS SERVICE

CHECK SHEET

Page	Number of Revision Except as Indicated
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17LECMI-1	Original
17LECMI-2	Original
17LECMI-3	Original
17LECMI-10	Original
17LECMI-10.1	Original
17LECMI-10.2	Original
17LECMI-10.3*	1st
17LECMI-10.4	1st
17LECMI-11*	1st
17LECMI-11.1	Original
17LECMI-12	Original
17LECMI-13	Original
17LECMI-14	Original
17LECMI-15	Original
17LECMI-30	Original
17LECMI-31	Original
17LECMI-32	Original
17LECMI-33	Original
17LECMI-34	Original
17LECMI-35	Original
17LECMI-36	Original
17LECMI-37	Original
17LECMI-37.1	Original
17LECMI-37.2	Original
17LECMI-38	Original
17LECMI-39	Original
17LECMI-40	Original

*New or revised page

Transmittal No. 4

Issued: February 19, 2013

Effective: March 6, 2013

John Summersett – Chief Operating Officer
Great Lakes Comnet, Inc.
1515 Turf Lane
Suite 100
East Lansing, MI 48823

ACCESS SERVICE

17LECMI. Rates and Charges (Cont d)

17LECMI.2 Switched Access Service (Cont d)

17LECMI.2.2 Local Transport (Cont d)

	Tariff Section Reference		
-Tandem Switched Transport	6.1.3(A)(3)		
-Tandem Switched Facility			
Per Access Minute Per Mile			
-Originating	$.00014	(N)	
-Terminating	$.00014	(N)	
			(D)
			(D)
-Tandem Switched Termination Per Access Minute Per Termination			
The Local Switching Rate charged by LEC Michigan includes all charges for Tandem Switched Termination directly provided by LEC Michigan.			
-Tandem Switching Per Access Minute Per Tandem			
LEC Michigan does not currently provide this service.			
Network Blocking Per Blocked Call	6.8.6		
			(D)
			(D)
	$.001088	(N)	
-Host Remote Transport			(N)
-Host Remote Transport Facility			
Per Access Minute Per Mile			
-Originating	$.000021		
-Terminating	$.000021		
-Host Remote Transport Termination			
Per Access Minute			
-Originating	$.00041		
-Terminating	$.00041	(N)	

Transmittal No. 4

John Summersett - Chief Operating Officer
Great Lakes Comnet, Inc.
1515 Turf Lane
Suite 100

ACCESS SERVICE

17LECMI. Rates and Charges (Cont d)

17LECMI.2 Switched Access Service (Cont d)

17LECMI.2.3 End Office

(A) Local Switching
- Per Access Minute $0.003594 (R)

The rate charged by LEC Michigan includes information surcharge, common trunk port and tandem switched termination charges for the portion of those services directly provided by LEC Michigan. (C) (C)

(B) Information Surcharge
- Per 100 Access Minutes

The Local Switching Rate charged by LEC Michigan includes all charges for Information Surcharge directly provided by LEC Michigan.

John Summersett - Chief Operating Officer
Great Lakes Comnet, Inc.
1515 Turf Lane
Suite 100
East Lansing, MI 48823

Exhibit 8

123Net-FCC-Base-Tariff (“Current LEC-MI Tariff Excerpts”)

123.NET, INC.
D/B/A LOCAL EXCHANGE CARRIERS OF MICHIGAN, INC.

AND ITS CONCURRING CARRIERS

REGULATIONS, RULES AND SCHEDULE OF INTERSTATE CHARGES
FOR SWITCHED ACCESS AND DIRECT NONSWITCHED ACCESS

F.C.C. TARIFF NO. 1

ORIGINAL TARIFF EFFECTIVE APRIL 12, 2014

Access Services are provided by means of wire, fiber optics, radio or any other suitable technology or a combination thereof.

Until May 2, 2014, regulations, rates and charges for the provision of interstate access services by 123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, Inc. were found in Great Lakes Comnet, Inc. Tariff F.C.C. No. 20, in which 123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, Inc. was an issuing carrier.

ACCESS SERVICE

CHECK SHEET

The Title Page and Pages 1-129 inclusive of this tariff are effective as of the date originally shown. Original and revised pages as named below comprise all changes from the original tariff in effect on the date indicated.

Page	Revision	Effective	Page	Revision	Effective	Page	Revision	Effective
Tit.	First	07/16/16	31	Original		61	Original	
1	Fourth	07/16/17	32	Original		62	Original	
2	Fourth	07/16/17	33	Original		63	Original	
3	Original		34	Original		64	Original	
4	Original		35	Original		65	Original	
5	Original		36	Original		66	Original	
6	Original		37	Original		67	Original	
7	Original		38	Original		68	Original	
8	Original		39	Original		69	Original	
9	First	05/02/14	40	Original		70	Original	
10	Original		41	Original		71	Original	
11	Original		42	Original		72	Original	
12	Original		43	Original		73	Original	
13	First	05/02/14	44	Original		74	Original	
14	Original		45	Original		75	Original	
15	Original		46	Original		76	Original	
16	Original		47	Original		77	Original	
17	Original		48	First	05/02/14	78	Original	
18	Original		49	First	05/02/14	79	Original	
19	Original		50	First	05/02/14	80	First	05/02/14
20	Original		51	Original		81	First	05/02/14
21	Original		52	Original		82	Original	
22	Original		53	Original		83	Original	
23	Original		54	Original		84	Original	
24	Original		55	Original		85	Original	
25	Original		56	Original		96	Original	
26	Original		57	Original		87	Original	
27	Original		58	Original		88	Original	
28	Original		59	Original		89	Original	
29	Original		60	Original		90	Original	
30	Original							

Issued by: James Kandler, COO
123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, Inc.
24700 Northwestern Hwy., Ste. 700, Southfield, MI 48075

ACCESS SERVICE

CHECK SHEET (Cont'd)

Page	Revision	Effective
91	Original	
92	Original	
93	Original	
94	Original	
95	Original	
96	Original	
97	Original	
98	Original	
99	Original	
110	Original	
111	Original	
112	Original	
113	Original	
114	Original	
115	Original	
116	Original	
117	Original	
118	Original	
119	Original	
120	Original	
121	Original	
122	First	05/02/14
123	Fourth	07/16/17
124	First	05/02/14
125	Original	
126	Original	
127	Original	
128	Original	
129	Original	

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements

5.1. Payment for Service.

The Customer is responsible for payment of all charges for services and facilities furnished by the Company to the Customer or its Joint or Authorized Users.

5.1.1. Taxes: The Customer is responsible for the payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however designated) excluding taxes on the Company's net income imposed on or based upon the provision, sale or use of Access Service. If an entity other than the Company (e.g. another carrier or a supplier) imposes charges on the Company, in addition to its own internal costs, in connection with a service for which the Company's Non-Recurring Charge is specified, those charges will be passed on to the Customer. It shall be the responsibility of the Customer to pay any such taxes that subsequently become applicable retroactively.

5.1.2. A surcharge is imposed on all charges for service originating at addresses in states which levy, or assert a claim of right to levy, a gross receipts tax on the Company's operations in any such state, or a tax on interstate access charges incurred by the Company for originating access to telephone exchanges in that state.[1] This surcharge is based on the particular state's receipts tax and other state taxes imposed directly or indirectly upon the Company by virtue of, and measured by, the gross receipts or revenues of the Company in that state and/or payment of interstate access charges in that state. The surcharge will be shown as a separate line item on the Customer's monthly invoice.

5.1.3. If billing systems or other support is not available for a service, feature, surcharge, or other charge element at the time of service provision, the Company will bill for that service, feature, surcharge, or other charge element as soon as it is capable of doing so.

[1] Pending the conclusion of any challenge to a jurisdiction's right to impose a gross receipts tax, the Company may in its sole discretion elect to impose and collect a surcharge covering such taxes, unless otherwise constrained by court order or direction, or it may elect not to impose and collect the surcharge. If it has collected a surcharge and the challenged tax is found to have been invalid and unenforceable, the Company, in its sole discretion, will either reduce service rates for a fixed period of time in the future in order to flow - through to Customers an amount equivalent to the funds collected or it will credit or refund such amounts to affected Customers (less its reasonable administrative costs), if the funds collected were retained by the Company or if they were delivered over to the taxing jurisdiction and later returned to the Company, or negotiate an arrangement with the taxing jurisdiction that benefits Customers in the jurisdiction in the future.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.1 Payment for Service (Cont'd)

5.1.4. Service-related credit amounts due the Customer that are related to, or based on, service usage will be applied before the application of taxes; and service-related credit amounts due the Customer that are not related to, or based on, service usage will be applied after the application of taxes.

5.1.5. If the Company becomes liable for any sales, use, gross receipts, excise, franchise, access or other local, state or federal taxes, charges or surcharges (however designated), excluding taxes on the Company's net income, which are imposed on or based upon the provision, sale or use of services, and which are in addition to such taxes, charges or surcharges already specified in this tariff, in such event the Customer shall be responsible for payment of such taxes, charges or surcharges from the date that the Company first became liable for same.

In the event of any dispute over the lawfulness of any tax, charge or surcharge, the Company may elect to impose such tax, charge or surcharge during such dispute, unless otherwise ordered by a court or other lawful authority with jurisdiction. The Company shall credit or refund any funds thus collected, if ordered to do so by such court or other lawful authority if such funds were retained by the Company, or were returned to the Company by the taxing jurisdiction which imposed such tax charge or surcharge.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.2. Billing and Collection of Charges

The Company shall bill on a current basis all charges incurred by, and credits due to, the Customer under this tariff attributable to services established, provided, or discontinued during the preceding billing period. All bills for services provided to or on behalf of the Customer by the Company are due in immediately available funds.

5.2.1. Non-Recurring Charges are payable when the service for which they are specified has been performed. Recurring Charges which are not dependent on usage will be billed in advance of the month in which service is to be provided. The Company shall bill Non-Recurring Charges and Recurring charges monthly to the Customer.

5.2.2. All charges are due and payable within 30 days after the invoice date.

5.2.2.1. If the payment due date would cause payment to be due on a Saturday, Sunday or Holiday (New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, or any day which is a legally observed Federal government holiday), the payment due date shall be as follows:

5.2.2.1.1. If the payment due date falls on a Sunday or on a Holiday which is observed on a Monday, the payment date shall be the first non-Holiday day following that day; and,

5.2.2.1.2. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday or Friday, the payment date shall be the last non-Holiday day following such Saturday or Holiday.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.2. Billing and Collection of Charges (Cont'd)

5.2.3. When service does not begin on the first day of a calendar month, or end on the last day of a calendar month, the charge for the fraction of the month in which service was furnished will be calculated on a pro-rata basis, based on a thirty-day month.

5.2.4. Billing of the Customer by the Company will begin on the Service Commencement Date. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued.

5.2.5. Amounts not paid within 30 days after the date of invoice will be considered past due and subject to the following late payment provisions.

5.2.5.1. Late Payment Charges: If (i) no payment is received by the Company from the Customer, (ii) a partial payment of the amount due is received by the Company after the payment due date and/or (iii) payment is received by the Company in funds that are not immediately available to the Company, a late payment charge shall be applied. The late payment charge will be an amount equal to the lesser of the following:

5.2.5.2. The highest interest rate which may be levied by law for commercial transactions, compounded daily for each day from the payment due date through and including the date the Customer makes payment to the Company; or,

5.2.5.3. .05 percent (0.0005) of the amount due compounded daily, for each day from the payment due date through and including the date the Customer makes payment to the Company. Calculation by this method yields an 18 percent annual-percentage rate. Interest shall not be assessed on any previously assessed late payment charges.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.2. Billing and Collection of Charges (Cont'd)

5.2.6. If the Company becomes concerned at any time about the ability of a Customer to pay its bills, the Company may require that the Customer pay its bills within a specified number of days less than 30 days after the date of the invoice and make such payments in cash or the equivalent of cash.

5.2.7. If a Customer does not give the Company written notice of a dispute with respect to the Company's charges within two years from the date the invoice was rendered, such invoice shall be deemed to be correct and binding on the Customer.

5.2.8. If a service is disconnected by the Company in accordance with Section 5.6 following and later restored, restoration of service will be subject to all applicable installation charges.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.2. Billing and Collection of Charges (Cont'd)

5.2.9. Billing Disputes: If the customer disputes a bill, the Customer must document its claim to the Company in writing within a reasonable period of time after the invoice is issued. For purposes of this tariff, the dispute date is the date on which the Customer presents sufficient documentation to support a claim. A separate letter of dispute must be submitted for each and every individual invoice that the Customer wishes to dispute. Prior to or at the time of submitting a good faith dispute, Customer shall tender payment for any undisputed amounts, as well as payment for any disputed charges relating to traffic in which the Customer transmitted an interstate telecommunications to the Company's network.

5.2.9.1. Sufficient documentation consists of, but is not limited to, the following information, where such information is relevant to the dispute and available to the Customer:

The nature of the dispute (i.e., alleged incorrect rate, alleged incorrect minutes of use, etc.), including the basis for the Customer's belief that the bill is incorrect;

The type of usage (i.e., originating or terminating);

The Company end office where the minutes of use originated or terminated (if applicable);

The number of minutes in dispute;

The billing account number(s) ("BANs") assigned by the Company;

The dollar amount in dispute;

The date of the bill(s) in question;

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.2. Billing and Collection of Charges (Cont'd)

5.2.1. Billing Disputes (Cont'd)

Circuit number or complete system identification and DS3 system identification if the dispute concerns a Connecting Facility Assignment ("CFA") on a DSI. Line number, trunk number and Two Six Code ("TSC") should also be provided;

Purchase Order Number (PON) and dates involved (due date or as-of date) for disputes involving order activity and what the Customer believe is incorrect (e.g. non-recurring charge, mileage, circuit identification) and why they believe it to be incorrect (not received, not ordered, incorrect rate, etc.) For order activity disputes documentation should include traffic reports, billing cycle, and, if the service is shared, both main and shared service BANs. Line number, trunk number and Two Six Code as well as end-office identification should also be provided; and/or,

Any other information necessary to facilitate dispute resolution.

If additional information from the Customer would assist in resolving the dispute, the Customer may be requested to provide this information. This data may include, but is not limited to, summarized usage data by time of day. The request for such additional information shall not affect the dispute date-established by this section.

5.2.9.2. The date of resolution shall be the date on which the Company completes its investigation of the dispute, notifies the Customer of the disposition and, if the billing dispute is resolved in favor of the Customer, applies the credit for the amount of the dispute resolved in the Customer's favor to the Customer's bill, including the disputed amount interest credit, as appropriate.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.2. Billing and Collection of Charges (Cont'd)

5.2.9 Billing Disputes (Cont'd):

5.2.9.3. Application of Late Payment Charges and Interest Credits to Disputed Amounts: Any payments withheld pending settlement of the dispute shall be subject to the late payment charges set forth in Section 5.2.5 preceding. The Company will resolve the dispute and assess interest, credits, late payment charges, and/or attorneys' fees to the Customer as follows:

5.2.9.3.1. If the dispute is resolved in favor of the Company and the Customer has paid the disputed amount on or before the payment due date no interest credits or late payment charges will apply to the disputed amounts.

5.2.9.3.2. If the dispute is resolved in favor of the Company and the Customer has withheld the disputed amount, which is impermissible under the tariff in the circumstances noted above, any payments withheld pending settlement will be subject to the late payment charge set forth in Section 5.2.5.

5.2.9.3.3. If the dispute is resolved in favor of the Customer and the Customer has paid the disputed amount, the Customer will receive a credit from the Company for the disputed amount plus interest at a rate of .05 percent (0.0005), compounded daily from the date of payment to the resolution date.

5.2.9.3.4. If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, which is impermissible under the tariff in the circumstances noted above, no interest credits or late payment charges will apply to the disputed amount.

5.2.9.3.5. In the event that the Company pursues and prevails on a claim in Court or before any regulatory body arising out of a Customer's refusal to make payment pursuant to this Tariff, Customer shall be liable for the payment of the Company's reasonable attorneys' fees expended in collecting those unpaid amounts.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.2. Billing and Collection of Charges (Cont'd)

5.2.10. The Company reserves the right to backbill for a period of up to twenty-four (24) months for an amount equal to the accrued and unpaid charges for use of the Company's service actually used by Customer for which the Company did not previously bill the Customer. The backbill shall not include interest.

5.3. Ordering. Rating and Billing of Access Services Where More Than One Exchange Carrier Is Involved

All Recurring and Non-Recurring Charges for services provided by each Exchange Carrier are billed under each company's applicable tariffs. Under a Meet Point Billing arrangement, the Company will only bill for charges for traffic carried between the Company Local Switching Center and the End User.

The multiple billing arrangement described in this section is subject to the provisions of the Multiple Exchange Carrier Access Billing Guidelines ("MECAB") and the Multiple Exchange Carrier Ordering and Design Guidelines ("MECOD"), except that the Company will not bill for local transport as described in MECAB.

The Company must notify the Customer of: 1) the meet point billing option that will be used; 2) the telephone company(s) that will render the bill(s); 3) the Carrier(s) to whom payment should be remitted; and 4) the Carrier(s) that will provide the bill inquiry function. The Company shall provide such notification at the time orders are placed for Access Service. Additionally, the Company shall provide this notice in writing 30 days in advance of any changes in the arrangement.

The Company will handle the ordering, rating and billing of Access Services under this tariff where more than one Exchange Carrier is involved in the provision of Access Services, as follows:

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.3 Ordering. Rating and Billing of Access Services Where More Than One Exchange Carrier Is Involved (Cont'd)

5.3.1. The Company must receive an order for Feature Group D (FGD) Switched Access Service, as defined herein, ordered to the Company's Local Switching Center through a switch operated by another Exchange Carrier.

5.3.2. In addition, for FGD Switched Access Service ordered to the Company's Local Switching Center through a switch operated by another Exchange Carrier with whom the Company has an agreement, the Customer may be required to submit an order as specified by the Exchange Carrier which operates the switch.

5.3.3. Separate bills will be rendered by the Exchange Carriers for FGD access service.

5.3.4. Rating and Billing of Service: Each company will provide its portion of the Access Service based on the regulations, rates and charges contained in its respective Access Service tariff, subject to the following rules, as appropriate:

a) The application of non-distance sensitive rate elements varies according to the rate structure and the location of the facilities involved:

1) When rates and charges are listed on a per minute basis, the Company's rates and charges will apply to traffic originating from the Customer's Premises and terminating at the End User's Premises, and vice versa.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.4. Advance Payments

For Special Access Service, the Company may in its sole discretion require a Customer to make an Advance Payment before services and facilities are furnished. The Advance Payment will not exceed an amount equal to the Non-Recurring Charge(s) and one month's estimated usage charges for the service or facility to be provided. In addition, where special construction is involved, the Advance Payment may also include an amount equal to the estimated Non-Recurring Charges for the Special Construction and Recurring Charges (if any) for a period to be set by agreement between the Company and the Customer. The Advance Payment will be credited to the Customer's initial bill.

The advance payment is due 10 business days following the date the Company confirms acceptance of the order, or on the application date, whichever is later. If the advance payment is not received by such payment date, the order may be cancelled. When the Customer cancels an Access Order, the order will be withdrawn. Any advance payment made will not be credited or refunded.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.5. Deposits

5.5.1. Applicants for service or existing Customers whose financial condition is not acceptable to the Company, or is not a matter of general knowledge, may be required in the Company's sole discretion at any time to provide the Company with a security deposit. The deposit requested will be in cash or the equivalent of cash, up to an amount equal to the applicable installation charges. if any, and/or up to three months' actual or estimated usage charges for service to be provided. Any applicant or Customer may also be required, at any time, whether before or after commencement of service, to provide such other assurances of, or security for, the payment of the Company's charges for its services as the Company may deem necessary, including, without limitation, advance payments for service, third party guarantees of payment, pledges or other grants of security interests in the Customer's assets and similar arrangements. The required deposit or other security may be increased or decreased by the Company as it deems appropriate in light of changing conditions. In addition, the company shall be entitled to require such an applicant or Customer to pay all its bills within a specified period of time, and to make such payments in cash or the equivalent of cash. In case of a cash deposit, simple interest at a rate of 6 percent annually will be paid for the period during which the deposit is held by the Company unless a different rate has been established by the appropriate legal authority in the jurisdiction in which the Company service in question is provided. At the Company's sole discretion, such deposit may be refunded to the Customer's account at any time. Also, the Company reserves the right to cease accepting and processing Service Orders after it has requested a security deposit and prior to the Customer's compliance with this request.

5.5.2. In the Company's sole discretion, a deposit may be required in addition to an Advance Payment.

5.5.3. The charges set forth in this tariff for Channel terminations contemplate installations made in normal locations and under normal working conditions. Any installations to be made under other circumstances are subject to additional charges.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.6. Refusal and Discontinuance of Service

5.6.1. Upon nonpayment of any amounts owing to the Company, the Company may, by giving prior written notice to the Customer as specified in Section 5.6.10.1 discontinue or suspend service without incurring any liability.

5.6.2. Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 30 days' prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.

5.6.3. Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair. The Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.

5.6.4. Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.

5.6.5. In the event the Company incurs fees or expenses, including attorney's fees, in collecting, or attempting to collect, any charges owed the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.6. Refusal and Discontinuance of Service (Cont'd)

5.6.6. If a Customer whose account has been closed has a credit balance showing, the Company will transfer the credit to another account of the Customer, if there is one, or will mail a check for the balance to the Customer if it believes it has a valid address. If the Company is not certain that it has a valid address, it will include a notice with the final invoice, which will be mailed to the Customer's last known address, asking the Customer to verify the address so that the Company can make a refund, or it will write to the Customer at that address and request verification. Such verification can be made by calling a designated telephone number or by writing to a specified address. Upon receiving verification, a check for the balance will be mailed. If the final invoice or the notification letter is returned by the post office as undeliverable, or if no response is received within thirty days of mailing, the Company will begin applying a closed account maintenance charge of $2.50 per month in the second monthly billing period following the month in which the account was closed, and will continue to apply that charge until the Customer requests a refund or the balance is exhausted.

5.6.7. Upon the Company's discontinuance of service to the Customer under Section 5.6.1 or 5.6.2 above, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this tariff, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.6. Refusal and Discontinuance of Service (Cont'd)

5.6.8. When access service is provided by more than one company, the companies involved in providing the joint service may individually or collectively deny service to a Customer for nonpayment. Where the Company(s) affected by the nonpayment is incapable of effective discontinuance of service without cooperation from the other joint providers of Switched Access Service, such other company(s) will, if technically feasible, assist in denying the joint service to the Customer. Service denial for such joint service will only include calls originating or terminating within, or transiting, the operating territory of the company initiating the service denial for nonpayment. When more than one of the joint providers must deny service to effectuate termination for nonpayment, in cases where a conflict exists in the applicable tariff provisions, the tariff regulations of the company whose Local Switching Center serves the Customer shall apply for joint service discontinuance.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.6. Refusal and Discontinuance of Service (Cont'd)

5.6.9. In its sole discretion, the Company may discontinue the furnishings of any and/or all service(s) to a Customer, without incurring any liability:

5.6.9.1. Immediately and without notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect its personnel, agents, facilities or services. The Company may discontinue service pursuant to this sub-section 5.6.10.1. if:

(a) The Customer refuses to furnish information to the Company regarding the Customer's credit-worthiness, its past or current use of common carrier communications services or its planned use of service(s); or

(b) The Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, past or current use of common carrier communications services, or its planned use of the Company's service(s); or

(c) The Customer states that it will not comply with a request of the Company for Advance Payment in accordance with Section 5.4 above or for security for the payment for service(s) in accordance with Section 5.5.1 above; or

(d) The Customer has been given written notice by the Company of any past due amount (which remains unpaid in whole or in part) for any of the Company's other common carrier communications services to which the Customer either subscribes or had subscribed or used; or

(e) The Customer uses service to transmit a message, locate a person or otherwise give or obtain information without payment for the service; or

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.6 Refusal and Discontinuance of Service (Cont'd)

(f) The Customer uses, or attempts to use, service with the intent to avoid the payment, either in whole or in part, of the tariffed charges for the service by:

(1) Using or attempting to use service by rearranging, tampering with, or making connections to the Company's service not authorized by this tariff; or

(2) Using tricks, schemes, false or invalid numbers, false credit devices, electronic devices; or

(3) Any other fraudulent means or devices; or

5.6.9.2. Immediately upon written notice to the Customer of any sum thirty (30) days past due;

5.6.9.3. Immediately upon written notice to the Customer, after failure of the Customer to comply with a request made by the Company for security for the payment of service in accordance with Section 5.5.1 above; or

5.6.9.4. Seven (7) days after sending the Customer written notice of noncompliance with any provision of this tariff if the noncompliance is not corrected within that seven (7) day period.

The discontinuance of service(s) by the Company pursuant to this Section does not relieve the Customer of any obligation to pay the Company for charges due and owing for service(s) furnished up to the time of discontinuance.

ACCESS SERVICE

B. REGULATIONS (Cont'd)

5. Payment Arrangements (Cont'd)

5.7. Cancellation of Application for Service

5.7.1. Applications for service are noncancellable unless the Company otherwise agrees. Where the Company permits the Customer to cancel an application for service prior to the start of service or prior to any special construction, charges will be imposed as specified in this Section and Section C.2.5.

5.7.2. Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of services ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the Customer had service begun.

5.7.3. The special charges described in 5.7.1 and 5.7.2 will be calculated and applied on an Individual Case Basis.

Exhibit 9

Form 499 Filer Database, Detailed Information for LEC-MI, ("LEC-MI Form 499")

FCC Form 499 Filer Database Detailed Information

FCC Form 499 Filer Database

DETAILED INFORMATION

Form 499 Filer 825633 RSS Feed

Filer Identification Information:

499 Filer ID Number:	**825633**
Registration Current as of:	**Apr 1 2019 12:00AM**
Legal Name of Reporting Entity:	**123.Net, Inc.**
Doing Business As:	**Prime Circuits**
Principal Communications Type:	**CAP/LEC**
Universal Service Fund Contributor: (Contact USAC at 888-641-8722 if this is not correct.)	**Yes**
Holding Company:	
Registration Number (CORESID):	**0008590846**
Management Company:	
Headquarters Address:	**24700 Northwestern Hwy Suite 700**
City:	**Southfield**
State:	**MI**
ZIP Code:	**48075**
Customer Inquiries Address:	**24700 Northwestern Hwy Suite 700**
City:	**Southfield**
State:	**MI**
ZIP Code:	**48075**
Customer Inquiries Telephone:	**866-603-4774** Ext:
Other Trade Names:	**Local Exchange Carriers of Michigan Inc LECMI Internet 123 123.Net**

Agent for Service of Process:

Local/Alternate Agent for Service of Process:	**Elina Shipper 123Net, Inc**
Telephone:	**248-228-8214**
Extension:	
Fax:	
E-mail:	**eshipper@123.net**
Business Address of Agent for Mail or Hand Service of Documents:	**24700 Northwestern Hwy Suite 700**
City:	**Southfield**
State:	**MI**
ZIP Code:	**48075**

D.C. Agent for Service of Process:	**Joseph Bowser Innovista Law PLLC**
Telephone:	**202-869-1500**
Extension:	
Fax:	**202-869-1503**
E-Mail:	**joseph.bowser@innovistalaw.com**
Business Address of D.C. Agent for Mail or Hand Service of Documents:	**1825 K St NW Suite 508**
City:	**Washington**
State:	**DC**
ZIP Code:	**20006**

FCC Registration Information:

Chief Executive Officer:	**Dan Irvin**
Business Address:	**24700 Northwestern Hwy Suite 700**
City:	**Southfield**
State:	**MI**
ZIP Code:	**48075**
Chairman or Other Senior Officer:	**Ryan Duda**
Business Address:	**24700 Northwestern Hwy Suite 700**
City:	**Southfield**
State:	**MI**
ZIP Code:	**48075**

President or Other Senior Officer: **James Kandler**
Business Address: **24700 Northwestern Hwy**
Suite 700
City: **Southfield**
State: **MI**
ZIP Code: **48075**

Jurisdictions in Which the Filing Entity Provides Telecommunications Services:

Illinois
Indiana
Kentucky
Michigan

Use browser "Back" button to return to results page.

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FCC Form 499 Filer Database Software Version 01.03.06 July 21, 2011

Federal Communications Commission
445 12th Street SW
Washington, DC 20554
More FCC Contact Information...

Phone: 1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232

Exhibit 10

AT&T's Consent Motion for Waiver and to Extend the Time in which to Convert its Informal Complaint as to LEC-MI ("January 2018 Consent Motion")

GRANTED

JAN 30 2018

Acting Chief, MDRD
Enforcement Bureau

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
AT&T SERVICES, INC.	)	
Complainant,	)	
	)	**File No. EB-14-MDIC-0003**
v.	)	
Local Exchange Carriers of Michigan, Inc.; Great Lakes Comnet, Inc.; and Westphalia Telephone Co.	)	
Defendants.	)	

AT&T's CONSENT MOTION FOR WAIVER AND TO EXTEND THE TIME IN WHICH TO CONVERT ITS INFORMAL COMPLAINT AS TO LEC-MI

Pursuant to Sections 4(i), 4(j), and 208 of the Communications Act, 47 U.S.C. §§ 154(i), 154 (j), 208, Sections 1.3 and 1.718 of the Commission's Rules, 47 C.F.R. §§ 1.3, 1.718, Complainant AT&T Services, Inc. ("AT&T"), by and through counsel, hereby submits this additional Consent Motion For Waiver and to Extend the Time In Which To Convert Its Informal Complaint against Local Exchange Carriers of Michigan, Inc. ("LEC-MI"), to a Formal Complaint.

On April 4, 2014, pursuant to Section 1.716 of the Commission's rules (47 C.F.R. § 1.716), AT&T filed an informal complaint against LEC-MI, and against two other defendants, Great Lakes Comnet, Inc. ("GLC") and Westphalia Telephone Co. ("WTC")).[1] AT&T's

[1] As to GLC and WTC, AT&T Services, Inc. (along with AT&T Corp.) converted its informal complaint to a formal complaint. As discussed below, the Commission granted AT&T's formal complaint in part, and then that proceeding was dismissed upon the joint motion of AT&T, GLC, and WTC.

informal complaint was subsequently docketed by the Commission as File No. EB-14-MDIC-0003. LEC-MI filed a response to AT&T's informal complaint on May 12, 2014.

As indicated in a letter from the Commission's Staff dated September 18, 2014, and as provided in Section 1.718 of the Commission's rules (47 C.F.R. § 1.718), AT&T initially had until November 12, 2014, to convert its informal complaint to a formal complaint so that the formal complaint would be deemed to relate back to the filing date of the informal complaint.

On November 7, 2014, AT&T filed a consent motion seeking to extend the time in which it must convert its informal complaint in order for it to relate back to the filing of that complaint. The Commission granted that request the same day, on November 7, 2014, and allowed AT&T an additional 90 days to convert the informal complaint into a formal complaint, until February 10, 2015.

On January 30, 2015, AT&T filed an additional consent motion seeking to extend the time in which it must convert its informal complaint in order for it to relate back to the filing of that complaint. The Commission granted that request the next business day (February 2, 2015) and allowed AT&T additional time to convert the informal complaint into a formal complaint, until May 11, 2015. On March 17, 2015, the Commission issued an *Order* granting in part AT&T's formal complaint against WTC and GLC, and GLC/WTC filed a petition for review of the *Order*.[2]

On May 8, 2015, AT&T filed an additional consent motion seeking to extend the time in which it must convert its informal complaint against LEC-MI in order for it to relate back to the filing of that complaint. In that motion, AT&T requested that the time be extended until 60 days

[2] *AT&T Services, Inc. and AT&T Corp. v. Great Lakes Comnet, Inc. and Westphalia Telephone Co.*, 30 FCC Rcd. 2586 (2015) ("*Order*"), *pet. for review denied in part, granted in part*, 823 F.3d 998 (D.C. Cir. 2016).

after the *Order* "becomes final and non-appealable." The Commission granted the consent motion in a letter order issued on May 11, 2015.

On May 24, 2016, the D.C. Circuit issued an opinion that remanded the *Order* back to the Commission as to one of the issues raised in the petition for review. *Great Lakes Comnet v. FCC*, 823 F.3d 998 (D.C. Cir. 2016). Following the remand, and upon a joint motion from AT&T, GLC, and WTC, the Commission issued an order dated May 4, 2017, which dismissed with prejudice AT&T's formal complaint against GLC and WTC. Order of Dismissal, *AT&T v. GLC*, DA 17-415, Proceeding No. 14-222 (May 4, 2017).

On June 23, 2017, AT&T filed an additional consent motion for waiver and to extend the time in which to convert its informal complaint as to LEC-MI, and the Commission granted the motion on June 26, 2017, and allowed AT&T until October 2, 2017, in which to convert its informal complaint.

On September 29, 2017, AT&T filed an additional consent motion for waiver and to extend the time in which to convert its informal complaint as to LEC-MI, and the Commission granted the motion on October 2, 2017, and allowed AT&T until December 4, 2017, in which to convert its informal complaint.

On November 28, 2017, AT&T filed an additional consent motion for waiver and to extend the time in which to convert its informal complain as to LEC-MI, and the Commission granted the motion on November 30, 2017, and allowed AT&T until February 5, 2018, in which to convert its informal complaint.

Since the Commission's most recent order, AT&T and LEC-MI have continued negotiations to try to resolve their dispute. Further, to facilitate those efforts, the parties have agreed to seek mediation before the Commission Staff (the "Mediation Session"). Although the

specific dates have not yet been determined, the parties have agreed jointly to propose to the Commission Staff mediation dates in April, 2018.

Under the current order, AT&T would need to convert its informal complaint against LEC-MI into a formal complaint by February 5, 2018. However, via this motion AT&T seeks an order from the Commission that allows AT&T until the date that is 60 days after the conclusion of the planned Mediation Session to convert its informal complaint against LEC-MI to a formal complaint so that any formal complaint against LEC-MI would be deemed to relate back to the filing date of AT&T's informal complaint.

There is good cause for the extension, and granting it would serve the public interest. The parties are making continuing efforts to settle the matters in the informal complaint, and will be seeking the Commission's assistance in that regard. Granting the waiver and the proposed extension would promote the private resolution of disputes and would postpone the need for further litigation and expenditure of further time and resources of the parties and of the Commission until such time as may actually be necessary.

AT&T has provided a copy of this motion to counsel for LEC-MI, and is authorized to state that LEC-MI consents to the waiver and extension of time requested by AT&T. In these circumstances, the Commission has granted waivers of Rule 1.718 to allow additional time to convert an informal complaint to a formal complaint,[3] and it should do so here as well.

Accordingly, through this additional Consent Motion, AT&T seeks a waiver of Rule 1.718, to extend the time in which it must convert its informal complaint in order for it to relate back to the filing of that complaint. 47 C.F.R § 1.3 (the Commission may waive its rules for "good cause"). AT&T requests that the time to convert the informal complaint into a formal

[3] *See, e.g., In the Matters of AT&T Corp. v. Advamtel, LLC, et al.*, 16 FCC Rcd. 16492 (2001).

complaint be extended until the date that is 60 days after the conclusion of the planned Mediation Session.

CONCLUSION

For the foregoing reasons, AT&T's Consent Motion should be granted.

Dated: January 29, 2018

/s/ Michael J. Hunseder

Michael J. Hunseder
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Attorneys for AT&T Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2018 I caused a copy of the foregoing Motion to be served as indicated below on the following:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
Via Hand Delivery

Lisa Griffin
A.J. DeLaurentis
Market Disputes Resolution Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, SW, Room 5A-848
Washington, DC 20554
Via Email

Joseph Bowser
Innovista Law
115 E. Broad St.
Richmond VA 23219
Office: (202) 750-3500
Direct: (202) 750-3501
Fax: (202) 750-3503
joseph.bowser@innovistalaw.com
Via Email

/s/ Michael J. Hunseder
Michael J. Hunseder

ACTIVE 228271368

Exhibit 11

Letter from Lisa Saks, Assistant Chief, Market Disputes Resolution Division, Enforcement Bureau (Sept. 13, 2018)

FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Market Disputes Resolution Division
445 12th St., S.W.
Washington, DC 20554

September 13, 2018

By E-mail

Michael J. Hunseder
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000
mhunseder@sidley.com
Counsel for Complainant

Joseph P. Bowser
Roth Jackson Gibbons Condlin, PLC
11 South 12th Street, Suite 500
Richmond, VA 23219
(804) 441-8701
jbowser@rothjackson.com
Counsel for Respondent

Re: Mediation of AT&T Services Inc. v. 123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, Inc., File No. EB-14-MDIC-0003

Dear Counsel:

This letter will confirm that both parties to this proceeding have agreed to mediate the above-referenced dispute before staff from the Market Disputes Resolution Division (MDRD) of the Commission's Enforcement Bureau. The parties' positions are reflected in the pleadings filed in this matter to date and in the mediation statements the parties submitted earlier this week.

The mediation will be held at the Federal Communications Commission on a date and time to be determined, and will continue to a second day, if necessary. A representative from each party with settlement authority and knowledge of the relevant facts should attend the mediation session, along with counsel. The Commission is located at 445 12th Street, S.W., Washington, DC 20554. In advance of that mediation session, the parties each will participate in one or more calls with MDRD staff, the first of which is scheduled to occur on September 20, 2018.

Mediation is a voluntary process in which parties engage in good-faith settlement discussions. In order to advance that objective, the following confidentiality standards apply.[1]

---

[1] *See generally* 47 U.S.C. §§ 154(i), 154(j) (Communications Act); 5 U.S.C. §§ 571-584 (Administrative Dispute Resolution Act of 1996) (ADR Act); 47 C.F.R. §§ 1.18(b), 1.731, 0.459 (FCC rules). To the extent the confidentiality provisions in this letter differ from the confidentiality standards contained in the above authorities, the confidentiality provisions here control. *See* 47 C.F.R. § 1.3 (stating that the Commission may waive its rules); 5 U.S.C. § 572(c) ("Alternative means of dispute resolution authorized under [the ADR Act] are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques."). Please note that an amendment to the Commission's complaint rules will become effective on October 4, 2018. https://www.gpo.gov/fdsys/pkg/FR-2018-09-04/pdf/2018-18689.pdf#page=2

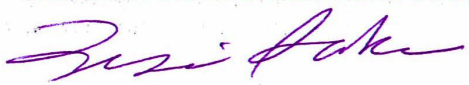
The parties and MDRD staff will keep confidential all written and oral communications prepared or made for purposes of the mediation (Mediation Communications), including offers of compromise, and staff and party comments made during the Mediation Process.[2] The parties will use any information learned during the Mediation Process solely for purposes of exploring a possible settlement of this dispute.[3] Neither we nor the parties will disclose or seek disclosure of Mediation Communications in any proceeding before the Commission (including the informal complaint proceeding involving the instant dispute or any formal complaint proceeding deriving from it) or before any other tribunal, unless compelled to do so by law.

In particular, the parties are not permitted to make reference to non-public information disclosed in the Mediation Process in filings before the Commission, regardless of whether such information is designated as confidential and redacted from the public version of the filing. Further, if a party intends to contact anyone at the Commission other than MDRD staff regarding this dispute or the mediation, that party must provide advance notice of its intention to MDRD staff and the opposing party.

If either party objects to these confidentiality directives, please e-mail an explanation for the objection to the other party and to MDRD staff (Adam Suppes and me) by September 18, 2018. Absent a written objection, the parties and their representatives are deemed to agree to these provisions.

This letter is issued pursuant to sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), the ADR Act, 5 U.S.C. §§ 571-584, sections 1.3, 1.18, 0.459, and 1.711-1.735 of the Commission's, 47 C.F.R. §§ 1.3, 1.18, 0.459, and 1.711-1.735, and the authority delegated by sections 0.111, and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311.

FEDERAL COMMUNICATIONS COMMISSION



Lisa J. Saks
Assistant Chief, Market Disputes Resolution Division
Enforcement Bureau

---

[2] The Mediation Process begins from the date the parties first requested staff-supervised mediation and encompasses all subsequent communications between or among the parties and MDRD staff in preparation for, during, and following the mediation session (until the parties either settle their dispute or either party sends a letter to the other party and MDRD staff stating that further discussions would not be productive).

[3] Note that these restrictions do not prevent a party from later using relevant information or documents that the party acquires outside the Mediation Process (e.g., through FCC-approved discovery, independent research, publication, or voluntary disclosure). Thus, pre-existing information that is not confidential does not become confidential solely because it is exchanged or mentioned during the Mediation Process. Likewise, relevant pre-existing information that a party may consider confidential will not be shielded from later discovery solely because it is exchanged or mentioned during the Mediation Process (although it might be subject to a protective order to shield it from public disclosure).

Exhibit 12

Mediation of AT&T Services Letter (June 6, 2019)

SIDLEY

SIDLEY AUSTIN LLP
ONE SOUTH DEARBORN
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+1 312 853 7000
+1 312 853 7036

AMERICA • ASIA PACIFIC • EUROPE

BMCALEENAN@SIDLEY.COM
+1 312 853 7346

June 6, 2019

Lisa Saks
Adam Suppes
Federal Communications Commission
Enforcement Bureau -- MDRD
445 12th St., S.W.
Washington, D.C. 20554

Re: Mediation of AT&T Services Inc. v. 123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, Inc., File No. EB-14-MDIC-0003

Dear Counsel:

I write on behalf of AT&T Services, Inc. and AT&T Corp. ("AT&T") regarding the mediation of the above-captioned dispute.

Pursuant to Staff's suggestion to address the concerns of 123.Net, Inc. d/b/a Local Exchange Carriers of Michigan, Inc. ("LECMI") regarding the implications of the lawsuit brought against LECMI by the litigation trustee for Great Lakes Comnet creditors ("Trustee"), AT&T contacted counsel for the Trustee to ask for certain information about the Trustee's lawsuit. In response, counsel for the Trustee informed AT&T that they were planning to make a settlement offer to LECMI, and asked if AT&T was interested in presenting a global offer that would resolve both disputes. Given LECMI's previously-stated desire for a global resolution, AT&T agreed to work with the Trustee and LECMI to reach a global settlement. After consultation with AT&T, counsel for the Trustee presented LECMI with a global offer. LECMI responded with an offer that showed the parties were very far apart. Upon further inquiry, LECMI indicated that it had no interest in materially increasing its offer to a point where the Trustee and AT&T could realistically entertain an agreement. The global settlement efforts consequently failed.

AT&T believes that the global offer to LECMI was reasonable and fair, and would have resolved LECMI's concerns about the multiple proceedings. Given the failure of that global settlement effort, AT&T believes that further mediation discussions would not be productive. AT&T will therefore move forward with converting its informal complaint to a formal complaint.

Based upon prior Enforcement Bureau Orders and correspondence from Staff, the deadline for AT&T to convert its informal complaint to a formal complaint is August 5, 2019.[1]

AT&T is disappointed a negotiated solution could not be reached, and appreciates Staff's time and effort on the mediation in this matter. Please let me know if you have any questions or concerns.

Sincerely,

/s/ Brian A. McAleenan

Brian A. McAleenan

cc: Joseph Bowser (counsel for LECMI)
Christi Shewman
Jeanine Poltronieri

[1] *See* AT&T's Consent Motion for Waiver and to Extent the Time in Which to Convert its Informal Complaint as to LEC-MI, pp. 4-5 (Jan. 29, 2018 ("Grant Stamped" on Jan. 30, 2018)) (requesting extension of deadline to convert informal complaint "until the date that is 60 days after the conclusion of the planned Mediation Session"); Letter from Lisa Saks, Assistant Chief, Market Disputes Resolution Division, Enforcement Bureau (Sept. 13, 2018) (stating that mediation process would not conclude until settlement was reached "or either party sends a letter to the other party and MDRD staff stating that further discussions would not be productive").